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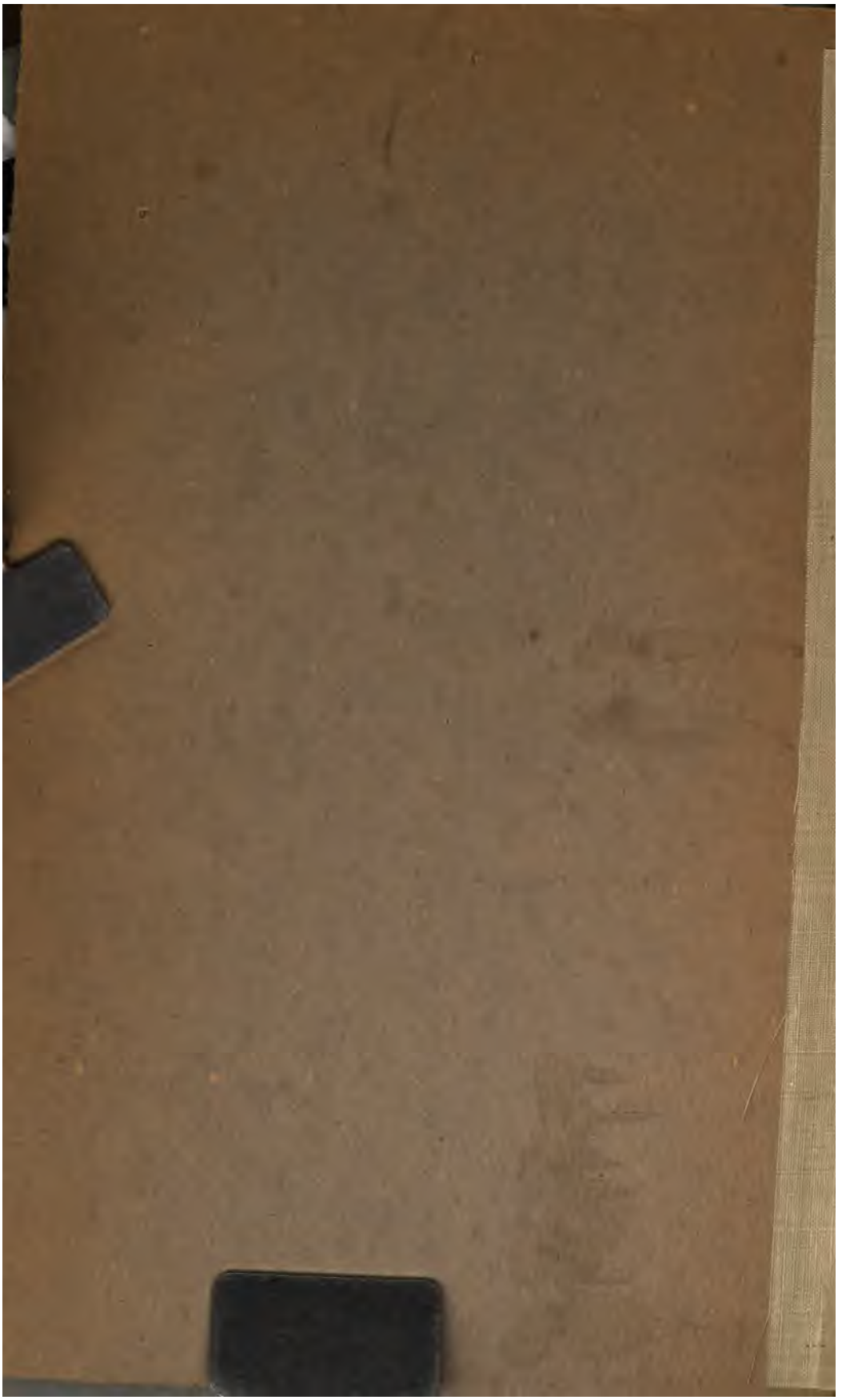
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Senate. Committee on Interstate Commerce

Interstate Commerce in Products of Child Labor

64-1 pt. 1-2



INTERSTATE COMMERCE IN PRODUCTS OF CHILD LABOR

HEARINGS

BEFORE THE

COMMITTEE ON INTERSTATE COMMERCE UNITED STATES SENATE

SIXTY-FOURTH CONGRESS

FIRST SESSION

ON

H. R. 8234

AN ACT TO PREVENT INTERSTATE COMMERCE IN THE PRODUCTS OF CHILD LABOR, AND FOR OTHER PURPOSES

Printed for the use of the Committee on Interstate Commerce

Part 1

WASHINGTON
GOVERNMENT PRINTING OFFICE
1916

COMMITTEE ON INTERSTATE COMMERCE.

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INTERSTATE COMMERCE IN PRODUCTS OF CHILD LABOR.

TUESDAY, FEBRUARY 15, 1916.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The committee met at 10 o'clock a. m. pursuant to the call of the chairman.

Present: Senators Newlands (chairman), Pomerene, Myers, Robinson, Thompson, Underwood, Clapp, Brandegee, Lippitt, La Follette, and Poindexter.

The CHAIRMAN. The committee has been called to consider the bill (H. R. 8234) to prevent interstate commerce in the products of child labor, and for other purposes, which the reporter will insert in full in the record.

(The bill referred to is as follows:)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate commerce the product of any mine or quarry situated in the United States which has been produced, in whole or in part, by the labor of children under the age of sixteen years, or the product of any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States which has been produced, in whole or in part, by the labor of children under the age of fourteen years or by the labor of children between the ages of fourteen years and sixteen years who work more than eight hours in any one day, or more than six days in any one week, or after the hour of seven o'clock postmeridian, or before the hour of seven o'clock antemeridian.

SEC. 2. Proof of the employment within sixty days prior to the shipment of such product therefrom (first) in a mine or quarry of a child under the age of sixteen years, or (second) in a mill, cannery, workshop, factory, or manufacturing establishment (a) of a child under the age of fourteen years, or (b) of a child between the ages of fourteen years and sixteen years for more than eight hours in any one day or more than six days in any one week, or after the hour of seven o'clock postmeridian, or before the hour of seven o'clock antemeridian shall be prima facie evidence that such product has been produced in whole or in part by the labor of such a child.

SEC. 3. That the Attorney General, the Secretary of Commerce, and the Secretary of Labor shall constitute a board to make and publish from time to time uniform rules and regulations for carrying out the provisions of this act.

SEC. 4. That for the purpose of securing proper enforcement of this act the Secretary of Labor, or any person duly authorized by him, shall have authority to enter and inspect at any time mines, quarries, mills, canneries, workshops, factories, manufacturing establishments and other places in which goods are produced or held for interstate commerce; and the Secretary of Labor shall have authority to employ such assistance for the purposes of this act as may from time to time be authorized by appropriation or other law.

SEC. 5. That it shall be the duty of each district attorney to whom the Secretary of Labor shall report any violation of this act, or to whom any State factory or mining or quarry inspector, commissioner of labor, State medical inspector, or school-attendance officer, or any other person shall present satisfactory evidence of any such violation to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay for the enforcement of the penalties as in such cases herein provided: *Provided*, That nothing in this act shall be construed to apply to bona fide boys' and girls' canning clubs recognized by the Agricultural Department of the several States and of the United States.

SEC. 6. That any person who violates any of the provisions of section one of this act, or who refuses or obstructs entry or inspection authorized by section four of this act, shall for the first offense be punished by a fine of not more than $200, and for each subsequent offense shall be punished by a fine of not more than $1,000 nor less than $100, or by imprisonment for not more than three months, or by both fine and imprisonment, in the discretion of the court: *Provided*, That no dealer shall be subject to conviction under the provisions of this act who shall establish a guaranty issued by the person by whom such goods were manufactured or produced, resident in the United States, to the effect that in the manufacture and production of such goods, neither in whole nor in part, had children been employed or permitted to work in any mine or quarry under the age of sixteen years, or in any mill, cannery, workshop, factory, or manufacturing establishment under the age of fourteen years or between the ages of fourteen years and sixteen years who worked more than eight hours in any one day or more than six days in any one week or after the hour of seven o'clock postmeridian or before the hour of seven o'clock antemeridian, and in such event the guarantor shall be amenable to any prosecution, fine, or penalty to which the person seeking the protection of such guaranty would otherwise have been subject under the provisions of this act. Said guaranty, to afford the protection above provided, shall contain the name and address of the person giving the same.

SEC. 7. That the word "dealer" or the word "person" as used in this act shall be construed to include any individual or corporation or the members of any partnership or other unincorporated association. The term "ship or deliver for shipment in interstate commerce" as used in this act means to ship or deliver for shipment from any State or Territory or the District of Columbia to or through any other State or Territory or the District of Columbia.

SEC. 8. That in prosecutions under this act each shipment or delivery for shipment shall constitute a separate offense.

SEC. 9. That this act shall take effect from and after one year from the date of its passage.

The CHAIRMAN. I understand that Mr. Grant Hamilton, of the American Federation of Labor, desires to be heard for a few moments, and the committee will now hear him.

STATEMENT OF GRANT HAMILTON, ESQ., REPRESENTING THE AMERICAN FEDERATION OF LABOR.

Mr. HAMILTON. Mr. Chairman and gentlemen, my statement will be very brief. As you well know, the American Federation of Labor has, during its entire existence, been very much in earnest in promoting child-labor legislation in the various States, and I anticipate that there ought not to be very much difficulty in the Senate of the United States, so far as the sentiment is concerned, any more so than the tariff.

I desire to say that, in my judgment and in the judgment of the Federation, the passage of the child-labor bill is a still further advance to protect our oncoming future population. I have heard a great deal and did hear a great deal in the House about the constitutionality of this bill. I am not a lawyer, and therefore whatever logic I may bring to bear upon this situation will be purely

from a humanitarian standpoint, and not that of a lawyer. I take it, however, that when we read the Constitution of the United States we have in mind the interest of all the people of our country, and the first section of the Constitution, among other things, says that the Congress of the United States shall be authorized to pass such legislation as will promote the general welfare and to protect posterity.

The child-labor legislation is to protect our posterity, and the bill which passed the House, and which is now before this committee, provides that children under 16 years of age shall not be permitted to work in mines and quarries and labor of that character, and in the canning factories and similar occupations they shall not be permitted to work under the age of 14 years; that an eight-hour day shall be established also, and certain hours specified within which they shall work.

My judgment is that those who opposed the bill in the House, and who may, perhaps, oppose it in the Senate, if their own convictions could be expressed—and when I say their own convictions I mean their own sentiments and their own feelings in the matter, unbiased by any other consideration—my judgment is there would not be a single vote against it.

I can readily recognize men coming from certain sections of the country, where industry employs children to a very large extent, that influence without question has a bearing upon their action in Congress, but I feel very kindly disposed even toward those who vote against the child-labor bill, because I believe, as I have just remarked, that it is not from any conviction which they have, or rather a conviction which comes from sympathy and a regard for the rights and lives of children.

I want to call your attention also to something that occurred about 20 years ago. One of the European monarchs endeavored to interest other monarchs of the European countries for the purpose of arriving at some understanding whereby children would not be employed in industry. I am not going to question the motive of the monarch who made this proposition, but will give it the very best construction. The idea, perhaps, behind it was that in the question of competition all of the countries of Europe would be upon an equal basis provided the labor of children below a certain age could be eliminated from industry.

Senator POMERENE. What monarch was that?

Mr. HAMILTON. That was the German Emperor; about 20 years ago.

I think I have nothing further to offer upon this subject, except to reiterate that the labor movement of this country, as represented by the American Federation of Labor—which, in my judgment, not only represents the organized wage earners, but is the only medium through which the unorganized can be spoken for—I think we represent a very large per cent of the working population of our country, and I wish to urge this committee, upon this particular bill, that I hope, and the Federation hopes, that action will be taken upon it so that the Senate will have an opportunity to act upon the bill prior to the congestion which will probably come when matters of larger moment—I would not say larger moment, because they are not larger—but matters which seem to more interest the public mind at

the present time, come before it, and I want to again urge that, if in the wisdom of this committee it may see its way clear to report the bill at a very early day, that it do so in order that we may have the opportunity which I spoke of. I should certainly be pleased to have that done, and so would the Federation and all of those who are interested.

I thank you, gentlemen.

Senator UNDERWOOD. Will you allow me to ask you a question?

Mr. HAMILTON. Certainly.

Senator UNDERWOOD. This has been usually talked of as a bill to limit the work of children under the age of 16 years. As a matter of fact, most of the children that it applies to are under 14 years of age; is that not a fact?

Mr. HAMILTON. Yes, sir.

Senator UNDERWOOD. It is only with respect to the mines and quarries—those are the only portions of the bill that relate to 16 years, and in all other factories and foundries and machine shops and canning factories they can work, if they are over 14 years of age, and do not work more than eight hours a day?

Mr. HAMILTON. Yes, sir.

Senator UNDERWOOD. So it is practically a bill to limit the hours of work, in a large percentage of cases of children, to 14 years?

Mr. HAMILTON. That is true.

Senator POMERENE. May I ask you a question. Was this bill prepared under the auspices of the American Federation of Labor?

Mr. HAMILTON. Yes, sir.

Senator POMERENE. Well, I note that in this bill it prohibits—I am speaking generally now—interstate commerce in goods which are the product of child labor. In the bill relating to convict labor, as I recall it now, there was not an attempt to prohibit by direct legislation of Congress interstate commerce in that class of goods, but it was an attempt to confer upon the State authorities the power to control that situation; in other words, it sought to leave the commerce in that class of articles under the control of State legislatures.

Now, my query is why was there this discrimination in the method of treating the two classes of goods?

Mr. HAMILTON. The main reason is that the convict labor question is settling itself by States more rapidly than is the question of child labor. There are many of the States at the present time where the sentiment is well crystallized against the use of convict labor except where they are employed under what is known as the State-use system; where they are employed to manufacture products consumed by the State in the State-supported institutions, and it is not as vital a question for that reason. If we apply the same principle to the child-labor bill the chances are it would be a long time in being settled. We have considerably more interest in the children of our country than we have in the convicts, although we certainly have an interest in them; but it is not so great. There are more children than there are convicts.

Senator POMERENE. What I was seeking to get at was the legal reason, if there was a legal reason, why you would differentiate between the two. It seems to me that if we adopt the right policy, if this is the right policy in the child-labor bill, that it ought to apply with equal force to the other bill.

Mr. HAMILTON. Of course, I could not speak from a legal point of view. I can readily understand, of course, your query; but for the reason which I have stated, that the convict-labor proposition is rapidly settling itself, and by the States, whereas, so far as the employment of children is concerned in certain of the States—some of the States, as you know, are extremely backward——

Senator POMERENE. Oh, yes.

Mr. HAMILTON. In enacting legislation of that kind; and furthermore you will realize this fact, that our industry is changing very rapidly, that is, women are going more and more into industry, and so are children, and the problem itself, that is the social problem, as differentiated between the convict-labor question, is hardly a parallel.

Senator POMERENE. Well, I simply had in mind the principle involved.

Mr. HAMILTON. Yes; the legal end of it.

Senator POMERENE. The legal end of it, yes.

Mr. HAMILTON. That, as I have said, has been primarily the reason for taking that position.

(Mr. Hamilton was thereupon excused.)

The CHAIRMAN. Gov. Kitchin is present. Governor, are you ready to proceed?

Mr. KITCHIN. Yes, Senator. We would like to have the committee hear Capt. Ellison Smyth, from Greenville, S. C.

STATEMENT OF CAPT. ELLISON A. SMYTH, OF GREENVILLE, S. C.

Mr. SMYTH. Mr. Chairman and gentlemen, there has been so much misrepresentation made as to the condition of the southern cotton mills that I would like, with your permission, to make a brief statement and then will be ready to answer any questions that any member of the committee desires to ask.

It is 35 years ago since I left Charleston, my native city, to build a cotton mill in the upper portion of the State, in the foothills of the Blue Ridge Mountains. We built first one mill and subsequently three others, so that now we have four mills there. The town has a population of about 5,000, and we have on our pay rolls something like 2,000 employees. We actually do not employ more than about 1,500, but a good many of them are what we call half-timers—men who work half the time—so that the pay roll is very much larger than it would otherwise appear.

When it came to our first time for payment of State taxes I was impressed with the fact that 75 per cent of the men who were employed in the building operations could neither read nor write—white men—consequently the company started at once a school for the children, for those who were engaged in the building of mills, not the people we expected to employ in the operation of the cotton mills. To-day we have three schoolhouses in the village and have 650 children at school, and the schools are maintained and run by the Pelzer Co. and are in operation nine months of the year. I found great difficulty, in the absence of any compulsory school law in South Carolina, to get the children who should be at school to attend school. I tried a number of plans and finally found that by paying them in regular mail envelops 10 cents a month for each scholar

that did not miss a day at school that that was really the only way in which we could secure a full or fair average for the attendance of those who were enrolled.

We have established there a savings bank which is a corporation separate from the mill company, and only part of the stockholders are stockholders in the mill company, and we have over 800 depositors now and about $120,000 from the mill employees on deposit. That bank lends the money out to the farmers in the surrounding country and to the merchants in the village. It is not the practice in South Carolina to any extent to run mill stores or commissaries, and in none of the mills with which I am connected are there commissary or mill stores. We have 12 stores that are rented out to merchants, and they conduct their business independently entirely of the corporation. We supply the town with water brought in from a mile and piped all over the town. We also supply the inhabitants with electric light—16-candlepower lights—for which we charge 10 cents a light a month. They can burn them all night, as the current is on all night, if they wish. There are five churches in the village. We have a large building that we call the Lyceum, where lectures are delivered every month, and there we have a circulating library of over 7,000 volumes, where any inhabitant of the village can go and take them without cost. We also have rooms for games and amusements, and in the reading room we take 25 newspapers and magazines for them to read. There is a military company there of 80 members that has been to New York once, at the Dewey parade, and to Savannah, and has been here to Washington at the presidential inaugurations. We also have two troops of Boy Scouts and any quantity of baseball clubs—from 8 to 10—and we pay a great deal of attention to cooking schools and schools to teach girls how to sew and how to make garments and to cut cloth.

For over 30 years I have kept very carefully the health rate of the village, and the death rate has never exceeded in any one year 2 per cent; the average has been between 1¼ and 1½ per cent during the past 30 years. The birth rate has run from 16 per cent to 22 per cent during that period. During the 30 years we have had only nine deaths from tuberculosis and not one case of typhoid fever, owing to the pure water with which the village is supplied—at least that is our belief about it. Now, the statement has doubtless been made to you that Pelzer is one of the show mills of South Carolina, and that they are held up as to what they have done for their employees, and other mills that did not do the same are shielded by the good reports that are made of that mill.

I am also directly in charge of the mills at Belton, S. C., 10 miles from Pelzer, and the conditions there are practically similar in all respects to what they are at Pelzer. My son is president of two mills; one is at Laurens, S. C.—the Watts mills—and also the Duncan mill at Greenville; and my son-in-law is president of two mills, one at Greenwood, S. C., and one at Ninety-six, S. C.; and I know from my personal intimate acquaintance with the running of those plants and the condition of those villages that the conditions are just the same, practically, as they are at Pelzer, and I could name dozens of mills in South Carolina, like Clifton, Pacolet, Glendale, Woodside, Piedmont, Williamstown, Newberry, and dozens of others, and from

my intimate acquaintance with the management I can testify that the conditions there, both as regards the sanitary and health rate and the welfare work, are practically the same and as good as they are at Pelzer.

Ever since the organization of the Cotton Manufacturers' Association of South Carolina, 12 years, I have been its president, and have been brought into contact with all the manufacturers of the State; that is, at least 95 per cent of the manufacturers are members of that association. We never discuss at those meetings anything relating to wage scales. Everything else is open to debate and discussion, but there is no agreement in South Carolina among the mills as to the wage scale, and never has been. Wages are regulated in each mill, and, of course, competition for help at times is acute, and in some of the finer mills—for instance, in my son's mill at Duncan, which is the last mill we built, about four and a half years ago—they have very fine goods and Jacquard looms and goods that are very fine. Their wage scale is higher than it is at Pelzer. They have more skilled labor. They require greater skilled labor and it requires a greater degree of intelligence.

I attended last summer a meeting of the Southern Textile Association, which is composed of superintendents and overseers of all the Southern States, some 1,100 men. They met at Asheville, N. C. I was surprised to find there 53 men—boys who had been raised at Pelzer; the only schooling that they had had was had at Pelzer School. These boys were now superintendents at good salaries, from $2,000 to $5,000 per annum. It was a very gratifying experience.

One year before a law was enacted by the State legislature reducing the hours to 10. The association voluntarily went on a 10-hour basis and observed that law among all the mills in that association, and ever since 1909 we have petitioned the South Carolina Legislature to enact three laws. This resolution was unanimously adopted on January 22, 1909:

No. 1. That the association renews its recommendation to the legislature that there be passed a general compulsory education law requiring the compulsory education of children under 14 years of age.

No. 2. That, provided there be passed such compulsory education law, this association feels that there is no objection to advancing under proper limitations and restrictions the age limit of children working in textile mills and other industries to an age to comply with the general compulsory education law as passed.

No. 3. That this association also renews its strong and urgent recommendation to the legislature that a law be passed in this State requiring registration of births and marriage licenses.

We also claimed that it was impossible to properly enforce the child-labor law unless there was a birth-registration law, as in the absence among the poor classes of people of family Bibles and records it would be practically impossible to determine the age of a child. We only succeeded in getting the birth-registration law passed last year, and there was passed last year what was called an optional compulsory school law, making the unit to elect and enforce the school district, but making no provision for any punishment for nonobedience to the law, and no provision for truant officers, or placing the responsibility on anybody to see that the law was enforced: consequently, the law is a dead letter. We are urging the legislature which is now in session this year again to pass a compulsory school

law, but if not, we have urged them—and our committee is in Columbia to-day—urging the legislature to pass a 14-year law, but urging and asking that they pass also the compulsory school law.

Senator UNDERWOOD. You say a 14-year law. Please explain what you mean by that.

Mr. SMYTH. That is a law that prohibits the employment of children under 14 years of age for any purpose.

Senator UNDERWOOD. A law of that kind would not be injurious to your milling interests, would it?

Mr. SMYTH. It would not be so injurious to the milling interests as it would be to some of the poor women who are dependent upon their children for support. But we have also asked the legislature to make some provision for the support of these women.

Senator UNDERWOOD. The reason I asked you that question is that this bill, so far as the milling industry is concerned, fixes the age limit at 14 years, as is indicated by your statement.

Mr. SMYTH. No, sir; this bill practically fixes the age at 16, because it says they can not work under 16 except eight hours, and that would force the mills to go on the eight-hour basis, which we are not prepared to do, or else it would be limited, it would limit our employment age down to 16. That would be the practical effect of the bill. It would be a 16-year bill.

Senator UNDERWOOD. Your objection to the bill, then, is not the provision that prohibits the working of children under 14 years, but is the provision of the bill which refers to the hours of labor between 16 and 14?

Mr. SMYTH. Our objection is twofold. First, the point you raise as between 14 and 16, and then for Federal inspection and control of our internal affairs by the General Government.

Senator UNDERWOOD. The other is a constitutional question, is it not?

Mr. SMYTH. We are subjected now in South Carolina to a very rigid inspection by the superintendent of the department of labor in South Carolina. We are constantly being investigated by inspectors, and are constantly brought up to taw, and no child now in South Carolina under 14 can work in a cotton mill without permit of the department of labor.

Senator POMERENE. Is it your judgment that children between 14 and 16 ought to be permitted to work more than eight hours a day?

Mr. SMYTH. Most decidedly, yes.

Senator ROBINSON. How long ought they to be permitted to work?

Mr. SMYTH. How many hours a day?

Senator ROBINSON. Yes.

Mr. SMYTH. Our law is 10 hours.

Senator LA FOLLETTE. How long do you work them?

Mr. SMYTH. The children?

Senator LA FOLLETTE. Yes, sir.

Mr. SMYTH. Well, they work 60 hours a week; not over that. But, as I have stated——

Senator LA FOLLETTE. How is that time divided?

Mr. SMYTH. They work 11 hours a day on Mondays, Tuesdays, Wednesdays, and Thursdays. On Fridays they work 10 hours and on Saturdays 6. The mills are shut down at 12 o'clock on Saturdays.

The CHAIRMAN. Captain, are you through with your preliminary statement?

Mr. SMYTH. Not quite; there is one other point that I wanted to allude to. I was very much interested two years ago in reading an article published in the American Magazine. I saw a review of it in a newspaper and I cut that out because it was more convenient to keep than the article itself. It was written by a man named Alfred Jay Nock, and he gave the results obtained by Prof. Carl Pearson, the head of the Galton Laboratory of National Eugenics at the University of London. The article was based on the theory that restrictive legislation reduced the birth rate, and Prof. Pearson's summary was this:

The older civilized countries of the world are much concerned as to their birth rate. In England, France, and Germany the figures show an alarming decrease. If the population shows more deaths than births, then one or two things will happen to that country: It must either induce people who are born somewhere else to migrate to that country continually or the nation will die. This question was taken under consideration by the laboratory of eugenics and careful investigation undertaken in three typical sections of England:

1. Bradford, Manchester, Bolton, and Leeds, the industrial heart of England.

You know the cotton manufacturing industry in England is concentrated within 6 miles around Manchester, where the condition of the climate and the standard of living are the same.

2. Cornwall, an agricultural, mining, and fishing district.

3. York, a county town, chiefly a trading center, with manufacturing purely incidental.

That is in the Manchester group.

These investigations showed a decline in birth rate of about 50 per cent in the first group, beginning in 1877, a short drop in the second group in 1867 and in 1887, and the same loss to a slightly less degree in 1887 in the third division.

Furthermore, this rate is still decreasing and has not come back. The reason of the great fall at fixed periods in all these groups suggested a common cause and after serious investigation the cause is stated to be restrictive legislation by the English Parliament affecting child labor and showing that in each case or group the enforcement of these restrictive laws was immediately followed by the drop in birth rate heretofore stated.

That is a very interesting fact from the standpoint of eugenics.

I have in my hand The Economic World, a magazine that is published in New York City. This is dated February 12, 1916, last Saturday. The editor is Prof. A. R. Marsh, who was formerly professor of statistics and economics at Harvard University, and he writes an article here signed by his name, entitled "The Public and Controversies over the Conditions of Labor." There is one paragraph that I would like to read to you:

What is the essential matter raised by the proposed national child-labor law, according to the terms of which children under the age of 16 will be prevented from all industrial production? The advocates of the measure would say that it is to give to all American children unburdened, free, and happy years of childhood, devoted to education and to useful recreation. This is an aim appealing to the minds of all of generous nature. But what of the economic possibility that the average head of an American family should rear to the age of 16, without contribution on their part, the three children that the French economist Paul Leroy-Beaulieu has shown to be the minimum number per family required to prevent the extinction of a race? All the available economic information about this country tends irresistibly to the conclusion that at least three-quarters of all American fathers could accomplish no such task. Hence, what is really involved in the child-labor bill, as it stands, is no less than the perpetuity or the gradual extinction of the American stock as it is. We may be

sure that the governing minds of Germany would have taken cognizance of this stern fact; but it has found no place at all in the expressions of American public opinion on the subject.

The only thing that I would like to add to what I have said is with respect to the enforcement of this law. Raising the age practically to 16 years would drive from the mills a number of children, and in many industries the main support of widowed mothers, and the suffering caused thereby would be very considerable and very decided. It is mainly on that account, and our objection to the Federal supervision of our internal affairs, that the manufacturers of the South are opposed to this bill. We do not object to the 14-year law at all. We do object to a 16-year law, and we do object to Federal supervision of our affairs.

Senator POMERENE. Mr. Smyth, I wish you would explain why the reduction from 10 hours to 8 hours per day for children between 14 and 16 years would result in keeping them out of the mills or from properly aiding in the support of their mothers.

Mr. SMYTH. The different departments of milling are interdependent. The weaving room depends entirely on the amount of spinning it gets from the spinning room. If the spinning room is only run for 8 hours the looms in the weaving room could not be run for 10 hours.

Senator POMERENE. Let us take the specific case in the mill that you have spoken about. How many employees have you?

Mr. SMYTH. We have on our pay roll about 2,000. We actually employ about 1,500.

Senator POMERENE. How many of these are children between the ages of 14 and 16?

Mr. SMYTH. I can give you that exactly. We have between 14 and 16 years 81 boys and 58 girls, and at Belton we have boys, 21, and girls, 16, between 14 and 16 years.

Senator POMERENE. Where is that mill?

Mr. SMYTH. It is at Belton; my other mill.

Senator POMERNE. Just let us take this one mill. That is 139 children between 14 and 16 years.

Mr. SMYTH. One hundred and thirty-nine; yes, sir.

Senator POMERENE. Now, your mill operates 10 hours per day, does it?

Mr. SMYTH. Sixty hours per week; yes, sir.

The CHAIRMAN. How many operatives have you in all?

Mr. SMYTH. We have 2,000 on the pay roll. We actually employ 1,500. A good many are half-timers.

Senator POMERENE. Why could it not be arranged that 139 children could be permitted to work there and have their time so arranged that none of them would be working over eight hours per day.

Mr. SMYTH. I think that would be a practical impossibility.

Senator POMERENE. Why?

Mr. SMYTH. I do not think it could be so arranged because where would you get the help for the other two hours?

Senator POMERENE. Of course, I am not familiar with the conditions down there at all, and I am simply asking the question.

Mr. SMYTH. It would be a practical impossibility. If the bill becomes a law as it is now written, it is going to drive out of the mills

of the South all of the children under the age of 16 years, and without any compulsory school law what is going to become of them? Take our village of Pelzer. We have 5,000 people. We have two policemen. They are a most remarkable set of people—the best people in the world—who work in these cotton mills. It is the very best stock, largely upon the mountain country, and they are pure, unadulterated Anglo-Saxons. In the 35 years that I have been there we have had only one murder in that town. Those two policemen are appointed by the government and paid by the corporation.

Now, we can not work people two hours a day; they will not make a living.

Senator LIPPITT. In reply to the question of the Senator, will you not explain to him that these children do not work in one department all by themselves, but that they are mixed in with the other operatives, and the machinery has to run proportionately so that it would not stop merely a few machines where the children work, but it would stop the whole thing in every department.

Mr. SMYTH. That was what I was trying to explain, that the children are mainly in the spinning room. We do not employ children in the weaving room, and but very few in the carding room. The children are employed in the spinning room, and we can not work them eight hours and then get somebody else to come in and work two hours. I suppose we could find them, but if we worked them five hours a day they would not make a living.

Senator POMERENE. Suppose you work one of these children eight hours per day and have him relieved by another child for the other two hours?

Mr. SMYTH. That could not be done. No other child would come in and work two hours.

Senator POMERENE. Not continuously, I dare say, but might that not happen on one day and the next day have him work his eight hours?

Mr. SMYTH. No, sir; we could not arrange that. It would be a practical impossibility. If the bill passes, the children under 16 are driven out of the mills.

Senator ROBINSON. How many children under 14 does that mill employ which Senator Pomerene asked you about?

Mr. SMYTH. He was asking me about between 14 and 16.

Senator ROBINSON. No; I am speaking about this mill. How many children under 14 are employed in that mill?

Mr. SMYTH. There are 102 between 12 and 14.

Senator ROBINSON. What number of those are boys and what number girls?

Mr. SMYTH. There are 69 boys and 49 girls.

Senator ROBINSON. Have you any children employed there under 12?

Mr. SMYTH. No, sir.

Senator ROBINSON. What work do these children under 14 perform?

Mr. SMYTH. They are spinners and sweepers.

Senator ROBINSON. What length of time do they work?

Mr. SMYTH. Sixty hours a week.

Senator ROBINSON. The same as the men in the mills?

Mr. SMYTH. Yes, sir; all employees of the mill work the same time.

Senator ROBINSON. Does the work require their constant attention?

Mr. SMYTH. It does not; no, sir. There is a great deal of playtime. If you go around the mills in the summer time you will find the boys out in the yard playing ball—what we call doffers. When the spinning frames become full of yarn, these boys have to doff them. While that is going on the spinners are doing nothing. The doffing comes every two hours.

Senator POINDEXTER. How long does that last?

Mr. SMYTH. The doffing lasts about half an hour.

Senator LA FOLLETTE. How often does that occur in one day?

Mr. SMYTH. Every two hours. Five times during the day.

Senator LIPPITT. You do not mean to say that the spinners are doing nothing while the doffing is going on, do you?

Mr. SMYTH. Yes, sir; they are just playing about.

Senator ROBINSON. How do you get them back?

Mr. SMYTH. We whistle to them out of the windows to come back.

Senator LA FOLLETTE. Why could you not arrange for a two-hour playtime for those between 14 and 16 years?

Mr. SMYTH. I did not catch that question.

Senator LA FOLLETTE. Why could you not arrange for a two-hour playtime for those between 14 and 16 years?

Mr. SMYTH. Well, the boys between 14 and 16 have two hours' playtime now—an hour and a half to two hours in the mill in good weather.

Senator ROBINSON. You have testified about the conditions in the mills you are familiar with. I believe you stated that you are the head of the millers' organization of South Carolina.

Mr. SMYTH. The manufacturers' association; yes, sir.

Senator ROBINSON. Do you know the number of mills in South Carolina?

Mr. SMYTH. Approximately; yes, sir. There are about 4,000,000 spindles in South Carolina. I have given it to you in corporations. Take ours, for instance; we have 4 distinct mills, and in the corporation it is something like 120.

Senator ROBINSON. There would probably be more mills than that.

Mr. SMYTH. Oh, more mills; yes, sir. Mills, something like 190.

Senator ROBINSON. Are they all cotton mills?

Mr. SMYTH. That is what I am speaking of—cotton mills; yes, sir.

Senator ROBINSON. How many of those are you familiar with, do you think—about how many?

Mr. SMYTH. I have visited almost every one of them, I think.

Senator ROBINSON. Are you familiar with the sanitary conditions prevailing in them?

Mr. SMYTH. In general; yes, sir. I have been through them.

Senator ROBINSON. The conditions are shown by your figures and statement in the one village or town to which you referred, and appear to me to be remarkable from a sanitary standpoint.

Mr. SYMTH. They are, with respect to the birth rate.

Senator ROBINSON. I believe you stated you had only two deaths from tuberculosis in 30 years.

Mr. SMYTH. In 30 years; yes, sir. You will hear other testimony from physicians upon the same matter.

Senator ROBINSON. Do you mean to say, in your opinion, that analogous and practically the same sanitary conditions prevail throughout the mills of South Carolina as at that particular mill?

Mr. SMYTH. I think so; yes, sir.

Senator ROBINSON. Have you made a comparison to know what the death rate, and especially the death rate from tuberculosis, is from the mill towns and in the towns where mills are located?

Mr. SMYTH. There have been no vital statistics kept in South Carolina at all until during the past year. At the session of the legislature last January and February such a law was enacted, but I have never seen the reports as yet; they have not been sent in.

Senator ROBINSON. The work has not yet proceeded far enough to enable you to arrive at a conclusion. Do you think that the health in the mill communities is very much better than the health in the rural communities?

Mr. SMYTH. I think it is fully as good and possibly better.

Senator ROBINSON. It is inconceivable to me that you could find another community with so many inhabitants where there would be only two deaths from tuberculosis in a period of 30 years.

Mr. SMYTH. I did not say two.

Senator ROBINSON. Then I misunderstood you.

Mr. SMYTH. I said nine.

Senator ROBINSON. I understood you to say two.

Mr. SMYTH. No, sir; not in the 30 years.

Senator ROBINSON. If you did not say that, I misunderstood you.

Mr. SMYTH. Nine is what I intended to say.

Senator ROBINSON. But even taking the figure 9, that is less than one in three years.

Mr. SMYTH. Yes, sir. I have kept these statistics very carefully at Pelzer, because the charge has been made that the cotton-mill business is a very unhealthy one, and that it causes tuberculosis and causes different diseases.

Senator ROBINSON. That is the point to which I am addressing my inquiry now. If your statistics are reliable, and of course I have no means of impeaching them, they not only show that the cotton-mill sections are very healthy, but that they are far more healthy than any other section in the State.

Mr. SMYTH. Well, take our town of Pelzer. The condition of health there is very much better than it is in any town in South Carolina where statistics are kept. I sent the reports to the Medical Society of South Carolina, and those reports came to me from physicians in the town. We have three physicians there and they make monthy reports of the births and deaths, the cause of death, and the ages.

Senator ROBINSON. Who keeps those?

Mr. SMYTH. The physicians send them in to me every month, and they are compiled in our office.

Senator ROBINSON. Have you ever checked the matter up or investigated it to know whether they kept an accurate record?

Mr. SMYTH. I have no reason to think they have not. They have no reason not to do so, one way or the other.

Senator ROBINSON. But do you know that they have?

Mr. SMYTH. They have no interest in it one way or the other.

Senator ROBINSON. I do not mean to provoke an argument with you. I am simply asking you a question.

Mr. SMYTH. I can check the death rate, but not the causes of the diseases or the number of births.

Senator ROBINSON. What is your altitude at Pelzer?

Mr. SMYTH. About 1,100 feet.

Senator ROBINSON. What is the population of the town?

Mr. SMYTH. Five thousand. An old gentleman was walking on the streets of Pelzer a short time ago and he asked a man whom he met what the altitude was, and he told him 90 per cent Baptists. [Laughter.]

Senator ROBINSON. The atmosphere ought to be very pure at Pelzer at that altitude?

Mr. SMYTH. It is a very fine climate.

Senator LA FOLLETTE. He was thinking of the humidity. [Laughter.]

Senator ROBINSON. Are those vital statistics kept of the other mills in the State, or do you know anything about that?

Mr. SMYTH. I do not think they are. I have never heard of their being kept anywhere else.

Senator ROBINSON. You made a statement some time ago that Pelzer was regarded by many as a show mill. What do you mean by that?

Mr. SMYTH. That has been charged by some of the national child-labor people.

Senator ROBINSON. Why?

Mr. SMYTH. Because they knew the conditions there were good and they could not gainsay them; they could not contradict it.

Senator ROBINSON. Is it not just as true——

Mr. SMYTH. They said the mill there was not to be considered a criterion, because other mills were very much worse off; but this mill was always put forward as ideal in a sanitary way.

Senator ROBINSON. Can not the same things be obtained at other mills?

Mr. SMYTH. Certainly, they could be.

Senator ROBINSON. Why are the statistics kept at that one mill. and why are not some statistics available there from other mills?

Mr. SMYTH. If they choose to take the trouble to keep them, there is no reason why they could not be kept.

Senator ROBINSON. You say you are president of the organization, and you discuss everything in that organization except the wage scale?

Mr. SMYTH. Yes, sir.

Senator ROBINSON. Why do you not discuss that?

Mr. SMYTH. Because we do not want to appear to be trying to coerce labor or to agree among ourselves as to what wages ought to be.

Senator ROBINSON. And what is the primary purpose of the organization in South Carolina?

Mr. SMYTH. It is to protect ourselves on freight rates mainly.

Senator ROBINSON. Then, you discuss freight rates, I take it, a good deal?

Mr. SMYTH. We discuss our freight rates and legislation and insurance. We all have our mutual insurance companies.

Senator ROBINSON. Do you discuss the child-labor legislation?

Mr. SMYTH. Yes, sir; we discuss that, among other legislation. There is frequent legislation proposed in South Carolina. There was legislation proposed the other day to regulate the humidity of the mill—and Senator Lippitt will appreciate this—and the resolution proposed to fix the standard, that the temperature should not rise above a certain degree, and if it varied 5°, up or down, no matter what the climatic condition was on the outside, it was considered a misdemeanor. It was considered seriously by the Legislature of South Carolina.

Senator ROBINSON. The attitude of the organization is one of opposition to this legislation, I take it?

Mr. SMYTH. Very decidedly.

Senator ROBINSON. But I believe, if I remember your statement correctly, that it is based not on the interest of the organization but on sympathy for the employees between the ages of 14 and 16, particularly with the parents of those employees.

Mr. SMYTH. Our opposition is based upon a twofold ground: First, you may say, because the age of 16 would cause a great hardship to a great many deserving people in South Carolina and in other Southern States; and, secondly, we object to Federal supervision and control of the industries of South Carolina.

Senator ROBINSON. Upon what is that objection based?

Mr. SMYTH. Well, we think it is a matter to be regulated by the State.

Senator ROBINSON. Your objection is a constitutional objection, is it—a legal objection?

Mr. SMYTH. Yes, sir; I am not a lawyer, and, of course, I do not express an opinion as to the constitutionality of it, but I do object to it as being an interference with our internal affairs.

Senator ROBINSON. What is the death rate among children employed in your mill?

Mr. SMYTH. It is very small.

Senator ROBINSON. I know; but what is it. Of course it is bound to be very small.

Mr. SMYTH. I have not the detailed figures here with me. I have that but I did not think it necessary to get it.

Senator ROBINSON. That is rather more important than the death rate of the total population, is it not?

Mr. SMYTH. The death rate at Pelzer, the largest rate, of course, is among children under, I would say, 5 years of age. That, I think, you will find everywhere.

Senator ROBINSON. Have you any statistics or have you kept any, showing the mortality rate among the children employees of your institution?

Mr. SMYTH. Well, our figures would show the total deaths in Pelzer.

Senator ROBINSON. But that is not the question.

Mr. SMYTH. How do you mean?

Senator ROBINSON. You have a certain number of employees, have you not?

Mr. SMYTH. Yes, sir.

Senator ROBINSON. And you have had such employees ever since your mill has been in operation, have you not?

Mr. SMYTH. Yes, sir.

Senator ROBINSON. Now, it is important to know, in this investigation, how the employment affects the health of the children; that is one question, I take it. Have you kept any figures to show what diseases have afflicted these children and how many of them have died while so employed by the mill?

Mr. SMYTH. Our figures would show the ages of everyone who died at Pelzer and the cause of death.

Senator ROBINSON. But it would not show how many of those that died were children, would it?

Mr. SMYTH. Yes, sir; it would show their ages.

Senator ROBINSON. Then, can you tell, now, how many of them who have died were children?

Mr. SMYTH. No, sir; it would be entirely a guess on my part, now. I did not bring those figures with me. I just brought the total averages.

Senator ROBINSON. What is the total average death rate for Pelzer?

Mr. SMYTH. It averages about 1¼ to 1½ per cent. It has never exceeded in an epidemic year over 2 per cent.

Senator LA FOLLETTE. May I ask a question?

Senator ROBINSON. Certainly.

Senator LA FOLLETTE. If you have the names and the ages of all who died within the year reported to you by your local physicians, and you have the record of the employments in your establishment of the children, you could ascertain exactly what the death rate is among your employees, could you not?

Mr. SMYTH. Yes, sir; very easily.

Senator LA FOLLETTE. Will you get your record of that and make it a part of this record here?

Mr. SMYTH. I will do that very cheerfully.

Senator ROBINSON. Your inquiry is as to children employees particularly, is it not?

Senator LA FOLLETTE. Entirely so; that was what was I was asking him about.

Mr. SMYTH. I understand that you want statistics sent up as to the average ages that have died at Pelzer during a period of time?

Senator ROBINSON. No. Here is what we want: The total number of deaths occurring in Pelzer for a given year; so many of them were children under 16 and so many of them were children under 14. That is what I want.

Mr. SMYTH. I will take pleasure in getting that.

Senator ROBINSON. Children between 14 and 16, embracing all classes of children employed in the mills.

Senator LA FOLLETTE. So many of them were employed in the mills.

Senator ROBINSON. I think those are the figures, so far as health, accidents, and deaths are concerned, that affect this resolution.

(The statistics referred to are as follows:)

Deaths at Pelzer, S. C., during past four years of children between the ages of 12 and 16 years: One male, 12 years of age, died of fever; one female, 16 years of age, died of meningitis.

Senator ROBINSON. I want to ask you one further question, and then I will not, I think, take any further time. Is there a common wage scale in force in South Carolina?

Mr. SMYTH. No, sir.

Senator ROBINSON. What wages are paid to children under 14 years in the Pelzer mill? Are they paid a uniform wage?

Mr. SMYTH. Our average wage last month was $1.31, and that was for men, women, and children.

Senator ROBINSON. I am not speaking about the average wage, but the wage of children under 14.

Mr. SMYTH. It depends very much upon the desire of the child to accumulate. We have plenty of children there now earning $1.25 a day who are between 12 and 16.

Senator ROBINSON. What is the average wage of children under 14?

Mr. SMYTH. I should say $1 a day.

Senator ROBINSON. And the average wage for children over 14 and under 16—between 14 and 16?

Mr. SMYTH. It is about the same. I think their capacity is about the same.

Senator ROBINSON. The younger children get the same as the others?

Mr. SMYTH. Oh, yes, sir.

Senator LIPPITT. Are they pieceworkers or dayworkers?

Mr. SMYTH. They are pieceworkers. They work on the sides in the spinning room.

Senator LIPPITT. They attend more or less, according to the capacity?

Mr. SMYTH. Yes, sir; if they attend eight sides they get a dollar a day for that.

Senator ROBINSON. What are the adult workers paid?

Mr. SMYTH. We have a good many departments. In the weaving department it is entirely based upon the piecework, and in the roving frames and counting rooms it is piecework. But take our card grinders and cloth-room people, for instance; they are generally day laborers.

Senator ROBINSON. Have you any statistics concerning the subject of accidents among the employees in your mills, or are you required by law to keep them?

Mr. SMYTH. We are not required by law to keep them, but we do keep them.

Senator ROBINSON. Have you those statistics available?

Mr. SMYTH. I have not got them with me.

Senator ROBINSON. Do you have many accidents in the cotton mills of South Carolina?

Mr. SMYTH. We have a few trivial accidents; nothing very serious.

Senator ROBINSON. Do you know how many persons—whether any have been killed in accidents, for instance, in the Pelzer mills.

Mr. SMYTH. No, sir; there has never been a person killed.

Senator ROBINSON. Not a single person?

Mr. SMYTH. No, sir.

Senator ROBINSON. Do you know how many serious accidents have occurred in the 30 years that you have been in charge of that mill?

Mr. SMYTH. I think the most serious accident happened to two men riding on the elevator. They got their arms crushed at the next story. They were leaning out, not knowing where they were going. They had their arms crushed. That was a most serious accident. They were operated upon.

Senator ROBINSON. Have you an employers' liability act in South Carolina?

Mr. SMYTH. A compensation law is just being passed now. My rule is to pay everybody that gets hurt at Pelzer for lost time and doctors' bills, and if they are seriously hurt——

Senator ROBINSON. Without regard to the question of contributory negligence?

Mr. SMYTH. Yes, sir. It is simply a matter of good feeling and good will.

I have some other statistics here which perhaps would be of interest to you. In 1889 at Pelzer we had then only 36,000 spindles. We had two mills, and our average pay was $0.53 a day. That was in 1889. We have now 136,000 spindles, and the average pay was $1.31 last month. Now, having, as we have, 136,000 spindles as against 35,000, there are actually less females employed in Pelzer mill to-day than in 1889. The percentage of female employees in the Pelzer mills to-day is only 26 per cent, and when we started business, back in 1871, 75 per cent of our weavers were women. To-day only 26 per cent are females, including the girls in the spinning room. The girls all marry off when they get to be 15 or 16 years and go out of the mills, and the weavers are practically men.

Senator POMERENE. I want to go back to the subject matter about which I was inquiring a moment ago. Twelve children working 10 hours per day would do the work of 15 children working 8 hours per day; that is, if you were to be put on an 8-hour scale, it would only require one-fourth more children than it does now on a 10-hour scale. So that your 139 children between the ages of 14 and 16 would have to be increased by 35, or one-fourth, making a total of 174 children. Now, that is the only change, so far as the number of children is concerned; and, assuming that those who work 8 hours a day would get the same wage per hour as those who would work 10 hours per day, why could not a schedule of time be arranged for those children so as to relieve them and not require them to work more than 8 hours per day without embarrassing the operation of the mill very seriously?

Mr. SMYTH. If you were a practical manufacturer I could explain it very easily to you. It is simply impossible. It could not be done. You can not work a hand eight hours a day and another hand two hours a day and give the one who has worked two hours a day legitimate support. He could not support himself or those who are dependent upon him.

Senator POINDEXTER. Could you not work two shifts of eight hours each?

Mr. SMYTH. You would shut down the balance of your mills and have your steam engines going and running only part of the spinning room; and that would not be a very healthy experiment, from a financial standpoint.

Senator POINDEXTER. I do not know a thing about it. I simply asked you the question.

Mr. SMYTH. You gentlemen may as well make up your minds to this, that, if you have that 16-year-old limit, no children under 16 years of age can find work; there is no other way in which you can face it, and you may as well recognize it. Those children are often the main support of widowed mothers. Now, what is going to become of those people unless the city or General Government makes some provision for their support and maintenance or forces them to go to school, because I claim that unless the child is forced to go to school it is better for that child to be at work. You do not want to raise a child in laziness.

Senator POMERENE. How many of those 139 children have widowed mothers?

Mr. SMYTH. I can not answer that positively or definitely, but a considerable number.

Senator POMERENE. What proportion?

Mr. SMYTH. I suppose one-third, or fully one-fourth.

Senator LA FOLLETTE. The death rate must be chiefly among the men in your town.

Mr. SMYTH. No; the death rate is not so much, but the men are very largely in the farming industries, and it is the widows who come to the mills to a very large extent. The men are engaged in farming operations to a large extent, except those who have been born and raised up in the mill community. We have dozens of families there that have been born and raised at Pelzer and have never worked anywhere else. They have children that work at the mills the same as they did.

Senator CLAPP. Captain, I have understood—I do not know how accurate it is—that in Massachusetts in the cotton mills the rule is eight hours a day.

Senator LIPPETT. No; 9 hours—54 hours a week.

Senator CLAPP. Well, nine hours. Then it would be possible to change from a 10-hour to a 9-hour basis, would it not?

Mr. SMYTH. Oh, it would be possible to go to an eight-hour day, of course, but if you want to equalize conditions between the South and New England, and if you are doing it by reducing the number of hours in the South or by increasing the age limit at which children may work in the South, you ought then to consider other conditions. A mill in New England at Fall River or Providence can buy cotton cheaper than we can buy it in South Carolina. That is a fact.

Senator ROBINSON. Why?

Mr. SMYTH. Because they can buy from the large centers like Galveston, New Orleans, Mobile, Charleston, and Savannah. They have water rates and land their cotton right up there. The mills in South Carolina use between 800,000 and 900,000 bales. We can not use the cotton from lower Carolinas; it is a different staple or color, and we are forced to go to North Alabama and North Georgia to get cotton. We have to pay the local rates of freight, and that is higher than the rate from Memphis to Boston, for instance, and when we manufacture our cotton goods we pay a 45-cent rate to New York as against 15 cents from New England to New York. Then, too, the New England mills have a very large command of money. They have their savings banks in Massachusetts and large amounts

of money that they loan to cotton mills at a very low rate. We have not that capital in the South and not that credit in New York, and we pay a higher rate for our money. If you are going to equalize conditions, you must equalize them all around. You must give us good freight rates and cheap money.

Senator CLAPP. That is very interesting, but you undertook to show that it would be practically impossible to go on an eight-hour basis. I am informed that the rule in Massachusetts is eight hours. I am also informed that the rule in Ohio——

Mr. SMYTH. You have been misinformed. Massachusetts is not on an eight-hour basis.

Senator POMERENE. It is nine hours.

Mr. SMYTH. Nine hours. I did not say it was impracticable to go on an eight-hour basis in the South or to go on a six-hour basis. Of course you can run mills on a six-hour basis only, but I say you can not work eight hours in one department and two hours in another.

Senator CLAPP. Now, Mr. Smyth, if there is no difference in Massachusetts based upon the age as to the number of hours the employee works, then it is possible to accomplish that, is it not?

Mr. SMYTH. It is possible, of course, but it is not fair.

Senator CLAPP. I am not speaking of that. I would like to continue on one line at a time. Now, if in Ohio there is one rule for adults and another rule within certain age limits in the factories as to the hours of work, then it is possible there also to adjust two different rates or scales as to the hours of labor, is it not?

Mr. SMYTH. I do not know what it is in Ohio. I am not familiar with the situation there, and I do not undertake to say.

Senator CLAPP. Well, if that fact exists?

Mr. SMYTH. That is a hypothesis.

Senator CLAPP. But you started in here with the suggestion that you could not adjust two rates in the hour scale.

Mr. SMYTH. I maintain that in the cotton mills you could not do it.

Senator CLAPP. Now, if it is done in Massachusetts——

Mr. SMYTH. But it is not done in Massachusetts.

Senator CLAPP. Well, we will discuss that later. If it is done in Ohio, it could be done in North Carolina, could it not?

Mr. SMYTH. I suppose that what has been done in one part of the country could be done in another, as far as the practicability of it is concerned.

Senator LIPPITT. Does Ohio run any cotton mills?

Mr. SMYTH. I never heard of any cotton mills in Ohio.

Senator CLAPP. We will discuss that later.

Senator THOMPSON. And I understand you could go to an 8-hour basis.

Mr. SMYTH. Yes, sir; an 8-hour or a 6-hour basis.

Senator THOMPSON. It is simply a financial proposition now, as I understand it.

Mr. SMYTH. Yes, sir; but you are undertaking in this bill to protect other States against Southern children who are working under the age of 16. You are not going to protect this country against the goods made by the cheap labor of children, after this war is over,

that is going to be imported under this Underwood tariff into this country. [Laughter.] By this child-labor law you are opening the door to a deluge of goods made by cheap child labor, where they are working from 12 to 14 hours a day, and we can not compete with them.

Senator CLAPP. Do you anticipate that the cotton manufacturers of New England are going to get enthusiastically behind this bill as a matter of competition with the North Carolina or South Carolina people?

Mr. SMYTH. Mr. Mann made that statement in the House, and it was made by Mr. Gardner of Massachusetts.

Senator LIPPITT. What was this statement?

Mr. SMYTH. That the bill should be passed because it was a defense of New England manufacturers and a protection to them and putting them on an equality with the Southern mills or bringing the Southern mills up to an equality with them. You will find that in the Congressional Record.

Senator LIPPITT. You do not believe that, do you?

Mr. SMYTH. No, sir; I do not. I know that a great many of my friends in Massachusetts are opposed to the passage of this law.

Senator LIPPITT. You do not believe for a minute that the manufacturers of New England are endeavoring to have this bill passed for the purpose of engaging in competition with the South, do you?

Mr. SMYTH. Not at all.

Senator LIPPITT. I want to ask you one question. In this bill there is a provision not only that the chilren shall not work more than 8 hours, but also that they shall not work before the hours of 7 o'clock in the morning and after 7 o'clock at night. The history of the textile business has been a gradual reduction in the hours of labor——

Mr. SMYTH. Yes, sir.

Senator LIPPITT. A voluntary reduction in the early stages and a reduction by law in the later stages. In North Carolina, I think, you have no law, have you, with regard to the hours of labor?

Mr. SMYTH. Yes, sir; we have.

Senator LIPPITT. That has been very recent, then.

Mr. SMYTH. North Carolina, I think, has had a law for two years, but I am not familiar with it. In South Carolina we have such a law.

Senator LIPPITT. What is the law of South Carolina?

Mr. SMYTH. Ten hours; 60 hours a week. We are allowed to work longer on any one day, but not over 60 hours a week. When we started in business we were working 11½ hours. Voluntarily the mills reduced that time to 10 hours before there was any legal requirement, or before the law was passed.

Senator LIPPITT. You, of course, understand that in New England the hours are materially less than in the South, do you not?

Mr. SMYTH. Yes, sir; I so understand.

Senator LIPPITT. Is it not quite reasonable to suppose that in time the hours of labor in the cotton mills will be still further lowered?

Mr. SMYTH. I think so.

Senator LIPPITT. That the time will arrive when it will run eight hours a day.

Mr. SMYTH. I think we are heading toward eight hours in time; yes, sir.

Senator LIPPITT. Has it occurred to you to consider under what system the mills might run economically, employing their labor eight hours a day; has it occurred to you to consider the possibility of running your mill with two shifts of hands, starting, perhaps, at half past 5 or 6 o'clock in the morning for one and running along until 2 or 3 o'clock in the afternoon, or whatever the time is?

Mr. SMYTH. That would be provided——

Senator LIPPITT. Just a moment—running along to perhaps 2 or 3 o'clock in the afternoon, and with another shift of hands running into 10 o'clock at night, or whatever the time would figure out?

Mr. SMYTH. Yes, sir.

Senator LIPPITT. I believe it is perfectly possible to fix a schedule of labor by which the mills will run practically 16 hours a day with two shifts of hands, all of those people being employed substantially in daylight—not entirely so, but substantially so—and by which the mills can be run quite as economically under the eight-hour basis as they can under the present nine-hour basis in New England. This bill, with this provision which I have referred to, would prevent that. It would seriously increase, or would it not seriously increase, the cost of cotton manufacturing on account of the high cost of machinery in the cotton mills, if you can only keep it in operation such a small part of the time?

Mr. SMYTH. Undoubtedly so; yes, sir. Your fixed charges would remain the same, as well as your taxes, and insurance, and overhead charges.

Senator LIPPITT. I wish you gentlemen would consider quite seriously that particular provision in this bill with regard to the future position of the textile industries of this country with relation to the industries of the world. I think that looking forward to the future development of the industry as at sometime coming to the eight-hour basis, that that provision would perhaps be one of the most economically burdensome of anything there is in this bill.

Senator UNDERWOOD. What class of goods do you spin at Pelzer?

Mr. SMYTH. We make coarse goods altogether—weaving.

Senator UNDERWOOD. What are the sizes of the yarns that you make into goods?

Mr. SMYTH. We make from 13s up to 45s.

Senator UNDERWOOD. You said awhile ago that there was a danger of importation. Have you ever known of any serious amount of importations of that class of goods coming into this country heretofore?

Mr. SMYTH. Yes, sir; there have been importations of yarns, I think, above 25.

Senator UNDERWOOD. I mean any serious importations, that would amount to as much as 1 per cent of the total spinning capacity of this country.

Mr. SMYTH. Not the total. It would not be a fair proposition. The total spinning capacity of the country is not to be gauged on 13 yarns.

Senator UNDERWOOD. But of that class of yarns, I mean.

Mr. SMYTH. I think it will be as much as 1 per cent of the production of that class of yarns.

Senator UNDERWOOD. As a matter of fact, there are practically no importations into this country of yarns of goods below 40s, are there?

Mr. SMYTH. There has been nothing for two years, but for a few months under the new tariff law it looked very alarming to us.

Senator UNDERWOOD. Of goods under the 40s?

Mr. SMYTH. It appeared to be goods of all descriptions.

Senator UNDERWOOD. Are you sure of that?

Mr. SMYTH. I did not say particularly 13 yarns; no, sir.

Senator UNDERWOOD. I suggest that you look into the transactions.

Mr. SMYTH. I mean of the entire output.

Senator UNDERWOOD. Where do you sell those goods?

Mr. SMYTH. Those 13 yarn goods?

Senator UNDERWOOD. I mean the class of goods you are making at Pelzer.

Mr. SMYTH. Largely to the Philippines.

Senator UNDERWOOD. And to the Red Sea?

Mr. SMYTH. Yes, sir; but none to China now because of conditions there.

Senator UNDERWOOD. In other words, the output of your mills is practically an export trade?

Mr. SMYTH. No, sir; only about one-third of our productions have gone in export. We make a good many print cloths and we are making bed sheets that are used in this country.

Senator UNDERWOOD. The mills at Pelzer then export at least one-third of your output in competition without a tariff with the mills of Europe and the cheap labor of Europe now?

Mr. SMYTH. I did not say that. I understand we are protected in the Philippines with a preferential duty.

Senator LIPPITT. As a matter of fact, with respect to the Philippines, your goods go free into the Philippines, do they not, and Europeans have to pay 25 per cent?

Mr. SMYTH. Yes, sir.

Senator LIPPITT. And before there was a preferential duty you exported nothing there?

Mr. SMYTH. Practically nothing. That business has increased remarkably in the last few years.

Senator UNDERWOOD. In the Red Sea country you get into competition with the world, do you not?

Mr. SMYTH. In the Red Sea we get what business we have by our personal representatives. I have had a man over there for 12 months.

Senator UNDERWOOD. I did not ask you that. I asked you if you did not get into open competition with the world in the Red Sea.

Mr. SMYTH. Not particularly the world. Our competition is principally with Austria, but it is owing to the superior quality of our goods.

Senator UNDERWOOD. I have no doubt that is true, and that is the reason I do not think you need all the tariff and all the protection that you cry for. You are capable of making superior goods.

Senator POINDEXTER. What is the rate of tariff on goods of the same quality that you manufacture now under the Underwood tariff?

Mr. SMYTH. I could not say. We consider the Underwood tariff

to be inoperative, so there may be no importations now owing to the war.

Senator POINDEXTER. But you were concerned in it, as you stated, before the war started.

Mr. SMYTH. Yes, sir: we are very much concerned. I have not those figures.

Senator POMERENE. That is, you have not been concerned enough about that tariff to post yourself as to what the tariff rate is?

Mr. SMYTH. It has been inoperative.

The CHAIRMAN. Will you tell us what the health and strength of the children employed in these mills are as compared with the health and strength in the towns outside of the cotton mills, and also the health and strength of children in the agricultural region.

Mr. SMYTH. Oh, I would like you to see them and see their condition. I would like you to come down and see the children in our mill schools, who are the children of our operatives working in the mills, and see their condition and see what they look like. Mr. Lippitt has been there and he has seen them.

The CHAIRMAN. When do they get the recreation that enables them to be healthy?

Mr. SMYTH. On Friday afternoons the mills are shut down at 5 o'clock, and on summer evenings the sun does not set until 8 o'clock and they have three hours of recreation and daylight to play in. But on Saturdays they shut down at 12 o'clock and they have the whole afternoon to play in. They have an hour nooning every day during the week besides.

The CHAIRMAN. And I understood you to say they had half an hour in every two hours.

Mr. SMYTH. The spinners, yes, sir.

The CHAIRMAN. That is only a portion of them.

Mr. SMYTH. Oh, not the others; not the grown folks.

Senator LIPPITT. How long do the children work on the plantations in South Carolina.

Mr. SMYTH. They work from sun to sun. They pick cotton and work all day in the hot sun.

Senator LIPPITT. Do they have a half holiday on Saturday?

Mr. SMYTH. No, sir.

Senator LIPPITT. How many hours a week do they work?

Mr. SMYTH. In the summer they work about 72 hours.

Senator LIPPITT. They work longer than that, do they not?

Mr. SMYTH. They do at some time; yes.

The CHAIRMAN. What effect does this life in the factories have on the men and women who come in from the farming regions?

Mr. SMYTH. You can not get them to go back to the farm.

The CHAIRMAN. Are they healthier and stronger than when they went there?

Mr. SMYTH. They are just as strong and healthy. The business is not unhealthy in any way, and it was to confirm my belief about that that I kept the statistics.

The CHAIRMAN. There is no tendency then toward race deterioration?

Mr. SMYTH. No, sir; and no lessening of the birth rate either.

Senator POINDEXTER. Have you made any study of the proposition that you get more efficiency out of the workers on an 8-hour day than on a 10-hour day?

Mr. SMYTH. No, sir.

Senator POINDEXTER. You have never studied that question?

Mr. SMYTH. No, sir; we can not get the same production out of a 10-hour day as we do out of 11.

Senator POINDEXTER. In many employments it has been discovered, has it not, that you get as much result from an 8-hour day as you formerly did from a 10-hour day?

Mr. SMYTH. That may be the case, say, with a bricklayer or where the work is done largely by the individual or manual labor, but in the cotton mills it is the machinery. A speed is set; it is run at a certain speed, and the operative simply attends that machine. There is no heavy lifting and no straining at all.

Senator POINDEXTER. But constant mental application?

Mr. SMYTH. No, sir; they watch the looms; they are automatic looms and run alone for two or three hours.

Senator POINDEXTER. Then, according to that it is neither physical labor nor mental application.

Mr. SMYTH. No, sir; I wish there would be more mental application about it. You would be surprised to see the amount of visiting in the cotton mills. The hands start the automatic looms up, and they run for an hour or an hour and a half without any attention, and then the weaver is in another part of the factory talking to somebody. The work is confining; there is that much to be said about it.

Senator POINDEXTER. You said it was impossible to have two shifts of eight hours each, but I did not understand your explanation as to why it was impossible.

Mr. SMYTH. Well, it would be impossible for us, because of the scarcity of labor. We want labor now, and if we were to run to-day on an 8-hour shift and not pay them as much as on a 10-hour shift they would not be willing to run to work for it. There has been no effort on the part of our people to lessen the hours of work, but they want more money. I have been asked to make this explanation as to the work that is done by the children in the spinning room. The spinning room is simply converting coarse yarns into finer yarns. The fine bobbins are set down below and the coarse ones are set up above, and that cotton yarn is drawn through rolls and the twist is put in it, and the result is finer yarn.

Now the work of spinning is simply to keep those ends up. If it breaks down the spinner pieces it up. She does not put those bobbins up above nor does she put them on the spindle. Her duty is simply to do the piecing when it is necessary to be done.

Now the doffer is simply the boy, who is generally from 16 to 18 years, who comes along and takes those bobbins off, those full bobbins, and puts on the empty bobbins, and while he is doing that the spinner is doing nothing; she can go off and play. When the doffer gets through with his rounds he is at liberty to go out into the yard and play. He is whistled for when he is wanted. There is no physical labor about it. All you can say about it is the confinement.

Senator THOMPSON. You spoke of providing facilities for schooling for the children?

Mr. SMYTH. Yes, sir.

Senator THOMPSON. What time or opportunity do those children between 14 and 16 have to attend?

Mr. SMYTH. There are a great many children in our village between 14 and 16 who go to school and who do not work in the mill. They are alternating to a large extent. One of them will go to school and the brother will work in the mill, and vice versa.

Senator THOMPSON. Those are all day schools, are they?

Mr. SMYTH. They are day schools, but we have night schools, too—different schools. The day schools run nine months in the year, and when the schools shut down there is a rush to get into the mill on the part of the children who have been going to school.

Senator THOMPSON. Is there an opportunity for children between 14 and 16 to go to school, who work in the mills?

Mr. SMYTH. Yes, sir; they go to night school. We have a night school that is open five nights in a week.

Senator POMERENE. Has your State labor department or any other department of your government any available statistics showing the number of children who are employed between 12 and 14 and between 14 and 16, in your State?

Mr. SMYTH. I have the report of the commissioner of labor right here.

Senator POMERENE. I would be very much pleased if you would insert, as part of your testimony, whatever statistics you have.

Mr. SMYTH. I shall give you the full report if you would like to have it.

Senator POMERENE. No; I just want the tables with respect to the matter to which I have called your attention.

Mr. SMYTH. Commissioner Watson said: In regard to the labor situation, as shown by census, there are now more people employed in the textiles than at any time in the past four years, the total number being 50,597, representing a mill population of 126,746. I am happy to note that 1,171 of this increase is represented by males over 16 years of age, while 593 are by women and girls over 16 years of age. In the matter of child labor, there are 121 less males under 16 years old employed this year than last year, and only 37 more girls under 16 than were employed in 1914. This makes a total working force under 16 in the textiles of only 7,328, which is considerably less than in any year in the last four years. The figures show that only 3,518 of these children are between the ages of 12 and 14, and the bulk of this number is represented by children very nearly 14 years of age.

As I stated last year, the tendency in all the textile plants is away from the employment of the child between 12 and 14, and, in my opinion, these 3,500 children between 12 and 14, out of a total of 50,597 employees, could be easily eliminated without damage to employer or employee by the enactment of a flat 14-year-old child labor provision.

Mr. Smyth was thereupon excused.

The CHAIRMAN. The committee will now take a recess until 3 o'clock to-day.

(Accordingly the committee, at 12 o'clock m., took a recess until 3 o'clock p. m.)

AFTER RECESS.

The committee resumed its session at 3 o'clock p. m. pursuant to the expiration of the recess.

The CHAIRMAN. Senator Clapp, I believe you have something you desire to insert in the record?

Senator CLAPP. I desire, if you please, to insert the table found on page 9 of Report No. 46, House of Representatives, Sixty-fourth Congress, first session.

(The table referred to by Senator Clapp is as follows:)

TABLE I.—*States having standard provisions without exemptions.*

(*a*) Fourteen-year limit in factories and canneries:

Alabama.	Maine.	New York.
Arizona.	Massachusetts.	North Dakota.
Arkansas.	Michigan (15 years; 14, canneries).	Ohio (16, girls; 15, boys).
Connecticut.	Minnesota.	Oklahoma.
Florida.	Missouri.	Oregon.
Illinois.	Montana (16 years).	Pennsylvania.
Iowa.	Nebraska.	Rhode Island.
Kansas.	New Hampshire.	Wisconsin.
Kentucky.	New Jersey.	
Louisiana.		

(*b*) Sixteen-year limit for night work in factories and canneries: All States listed under I (*a*) except Maine, and, in addition—

California.	Idaho.	South Carolina.
Delaware.	Indiana.	Vermont.
District of Columbia.	North Carolina.	

(*c*) Eight-hour day under 16 in factories and canneries:

Arizona.	Kentucky.	New York.
Arkansas.	Massachusetts.	North Dakota.
California.	Minnesota.	Ohio.
District of Columbia.	Missouri.	Oklahoma.
Illinois.	Nebraska.	Wisconsin.
Iowa.	Nevada.	
Kansas.	New Jersey.	

(NOTE.—Montana forbids the employment of children under 16 in factories.)

(*d*) Sixteen-year limit in mines and quarries:

Alabama.	Kentucky.	Oklahoma.
Arizona.	Maryland.	Tennessee.
Arkansas.	Nevada.	Texas (17 years).
California.	New York.	Wisconsin (18 years).
Connecticut.	Ohio.	

(e) Sixteen-year limit in mines but not in quarries:

Colorado.	Montana.	Washington.
Illinois.	Pennsylvania.	

The CHAIRMAN. Gov. Kitchin, whom will you introduce now?

Mr. KITCHIN. We should like to have Mr. Hope address the committee.

STATEMENT OF DR. W. D. HOPE, LOCKHART, UNION COUNTY, S. C.

The CHAIRMAN. Doctor, please give your name, residence, and occupation to the stenographer.

Dr. HOPE. My name is W. D. Hope; residence, Lockhart, Union County, S. C. I am a practicing physician and have practiced medicine 28 years, being a graduate of the University of Maryland.

The CHAIRMAN. Dr. Hope, you may proceed with your statement.

Dr. HOPE. I have practiced medicine in the country districts prior

to 17 years ago and have practiced in the mill town of Lockhart for 17 years. I have been associated with the mill people and the surrounding country districts for 17 years. I have observed the health, growth, and the development of mill children, in comparison with the country children. I have practically seen no difference. I have observed children who have worked in the mill as early as 12 years of age who have now developed into manhood and womanhood and who, as fathers and mothers, have produced healthy offspring. That is practically as far as I care to go, unless there are some gentlemen who would like to ask questions.

Senator BRANDEGEE. Did you state what town you are from, Doctor?

Dr. HOPE. From Lockhart, Union County, S. C. Our population varies from 1,500 to 1,700 people; and 60,000 spindles in the mills.

Senator BRANDEGEE. Did you hear the testimony of Mr. Smyth this morning before the committee?

Dr. HOPE. Yes; I heard it this morning.

Senator BRANDEGEE. Have you any information about how the health of the children employed in the mills of which he spoke compares with that of the health of the children in the same town not engaged in the mills?

Dr. HOPE. I have no statistical report from any other mills.

Senator BRANDEGEE. Do you speak of the mills he spoke of?

Dr. HOPE. No, sir; I am speaking of the mills of the town at which I am located.

Senator BRANDEGEE. How is it with the mills where you are located? I understand you to say the health of the children from 12 to 16 years who are employed in the cotton mills there is as good as it is of the children who are not employed in the cotton mills.

Dr. HOPE. Employed in the surrounding country districts. It is a small mill town, and I am connected with the country districts.

Senator BRANDEGEE. In your opinion, is the cotton industry especially deleterious to the health of children?

Dr. HOPE. It is not, sir.

Senator BRANDEGEE. Are the mills that you speak of well ventilated?

Dr. HOPE. Yes, sir.

Senator BRANDEGEE. Is the manual labor required of these children of the kind that, so far as being a tax upon their physiques, is deleterious to their health?

Dr. HOPE. I would not think so. I am not familiar with the work in the mills. The appearance of the children does not indicate it.

Senator BRANDEGEE. Have you been through these mills frequently?

Dr. HOPE. Yes, sir; I go through them.

Senator BRANDEGEE. Are you familiar with the condition of ventilation and sanitation in them?

Dr. HOPE. Yes, sir.

Senator BRANDEGEE. In your opinion, are they insanitary?

Dr. HOPE. No, sir; they are not insanitary. The sanitary conditions are good.

Senator BRANDEGEE. What sort of ventilation have they?

Dr. HOPE. They have the skylight above and then the rolling windows with transoms.

Senator BRANDEGEE. Have you not seen the children at work at many of these looms or spindles as you went through?

Dr. HOPE. Yes, sir.

Senator BRANDEGEE. I understood you to say you did not know anything about the kind of work required of them?

Dr. HOPE. I am not familiar with it. I have merely seen them at work.

Senator BRANDEGEE. That is what I mean; you observed the kind of work they do. Did it seem to you to be a kind of work that would affect their physical condition badly?

Dr. HOPE. No, sir.

Senator BRANDEGEE. It is not hard work?

Dr. HOPE. No, sir.

Senator BRANDEGEE. It is light work, the shifting of bobbins and spools?

Dr. HOPE. Yes, sir.

Senator BRANDEGEE. And there is no heavy work required of them?

Dr. HOPE. No, sir.

Senator BRANDEGEE. That is all I care to ask.

The CHAIRMAN. What chances have they for recreation during these hours?

Dr. HOPE. During what hours?

The CHAIRMAN. During the working hours.

Dr. HOPE. You mean with respect to the smaller children?

The CHAIRMAN. Yes.

Dr. HOPE. They have the noonday recess, of course, for their meals. I do not understand the mill work, but the children doing the spinning have a period in between while they do what they call "doffing." As I say, I am not familiar with the mill work. I am located in the mill town, and I only go through the mill. But there is a period when those children oftentimes go out in the mill yard and play a half-hour at a time, and by a whistle they call them back in. They have different signals to call them in. I am not familiar with just what the period is between the recreations.

You go in a mill and you will observe the children are talking and laughing, congregated together in different places in the mill.

The CHAIRMAN. Does the work in the mill involve any great tendency toward disease?

Dr. HOPE. No, sir; we have only had a vital-statistics law in our State about a year.

Mr. KITCHIN. I wish you would direct his attention particularly to tuberculosis. That is one of the charges against mill work.

The CHAIRMAN. How about that, Dr. Hope?

Dr. HOPE. We have some tubercular trouble at the mills, but it is not out of proportion to the population. I do not know the percentage; I have not the statistics. I have been in there about 17 years, and we have possibly had 10 or 12 deaths, or maybe more, from tubercular trouble at Lockhart; but it is not anything like an epidemic in the mills. It does not spread among the employees. We have possibly as much tuberculosis through the country districts as we have in the mills. The population which came to the town in which I am located when the mill first started consists of at least

three-fifths of the original population that came when the mill first began. They have made their homes there and have grown up there.

The CHAIRMAN. Have you observed any deterioration in the mill employees?

Dr. HOPE. No, sir; I have not. Last year the death rate was a little less than 2 per cent in Lockhart, acording to the statistical report by our State board of health. I sent those figures out last year myself. We run a little lower than that sometimes, and have run a litle higher when we have had epidemics. The mortality among children is not any greater in the town than it is in the country districts, from 1 to 2 years old, during the second summer, which is known as the hard period on children. The children of all mill people seem to resist the diseases as well as any children.

Senator POMERENE. What portion of these 17 cases were mill employees?

Dr. HOPE. Well, I was speaking of the mill village proper when I said 10 or 12 cases.

Senator POMERENE. I know; but you made the statement that there were 10 or 12 cases of tuberculosis?

Dr. HOPE. Probably that many; yes, sir. I have not the statistics.

Senator POMERENE. What proportion of them were mill employees?

Dr. HOPE. What proportion of them worked in the mills?

Senator POMERENE. Yes.

Dr. HOPE. They were all at work. I was speaking of that town; but some of them, as I recall—one or two—came to the mill infected. The heads of the families became infected with the tuberculosis, and the family worked in the mill. Then they would die there from the results of tubercular trouble.

Senator POMERENE. What portion of these 10 or 12 were children in the employ of the mill?

Dr. HOPE. I can not recall.

Senator POMERENE. Did any of them contract this tuberculosis while working in the mill?

Dr. HOPE. That is a pretty hard question to answer, sir, as to where they contracted it. I do not know of a single child that has contracted tuberculosis in the mill.

Senator POMERENE. What is the effect of the breathing of this lint, dust, etc., in the mill?

Dr. HOPE. With good ventilation they will throw it off.

Senator POMERENE. How is that?

Dr. HOPE. When they have good ventilation they throw it off.

Senator POMERENE. And when they do not, of course, the child is affected somewhat?

Dr. HOPE. If they have not sufficient oxygen they are liable to. As long as they have sufficient oxygen in which to combat the germs, and the individual has good resisting powers, then he can throw off any disease. It is only the want of resisting power that causes the people to become infected with any disease.

Senator POMERENE. Would you like to have your own children engaged in the mill in this kind of employment? Would you regard it as conducive to their health?

Dr. HOPE. Let me understand your question exactly. You mean, would I object if [illegible] to labor at this employment?

Senator POMERENE. That is what I mean.
Dr. HOPE. I would not, if they had to labor; no, sir.
Mr. KITCHIN. Our next will be Mr. Scott Roberts, of Alabama.

STATEMENT OF MR. SCOTT ROBERTS, TREASURER ADELAIDE MILLS, ANNISTON, ALA.

The CHAIRMAN. Please state your name, residence, and occupation.
Mr. ROBERTS. My name is Scott Roberts, and I am treasurer of the Adelaide Mills, Anniston, Ala. I am 37 years old.

Mr. Chairman, I will ask your permission to read a very brief excerpt from the Congressional Record, in connection with the hearing held there about six weeks ago. I quote from page 2543, being the extension of remarks, Wednesday, February 2, 1916, by Hon. John R. K. Scott, of Pennsylvania. He makes this statement:

> The opponents of this bill lack the courage to come out and squarely attack the measure upon its merits. Instead they are attempting to becloud and confuse the real issue and conceal their real objection by bringing forward a feigned and fictitious reason to sustain their opposition.

Senator POINDEXTER. Whose statement is that?
Mr. ROBERTS. John R. K. Scott. [Continues reading:]

> They will not and dare not attack this bill upon its merits. They lack the audacity to come forward and argue in favor of the exploitation of the children by the merciless, avaricious industrial interests of the South, and so they proceed to contemptuously attack the provisions of this most meritorious piece of legislation by raising the hue and cry of constitutional infringements.

Gentlemen, I am one with sufficient audacity to attack this measure on its merits and solely on its merits. I feel that in this legislation we are attempting to infringe upon the inherent human rights of the poor young children in the South and everywhere else. When we have been shown the means to care for these people when they are thrown out of employment I would even then be willing to debate with anyone the wisdom of leaving them without an occupation; but until you do show us some satisfactory provision for these young people, I can not see what merits there can be in such a proposition. As I look around me I am struck with the fact that almost every successful man I have ever known not only went to work early in life but boasts of it and credits that fact with his ultimate success—that early he learned the habits of thrift and industry.

Now, why is it that we have turned so completely around against the experience of almost every successful man in the acquaintance of everyone here? Of course, that is not every man, but it is so much so that I judge almost any man would admit it. There can be but one reason, and that is that we feel that the work that the children are doing is injurious to them.

Well, in connection with this, some years ago the Beveridge investigation—I suppose you would call it—was responsible for the appropriation of something like $300,000 to make an investigation of the condition of the woman and child workers throughout the United States, including the South. It has been charged that that investigation was biased from the first. I shall not attempt to say whether it was or not. But they discovered some very remarkable

things in connection with it. Their various agents were sent all over this country, and the results of their investigations were published in 19 volumes. This is one of them [referring to book]. It is volume 1, Cotton Textile Industry, Report on Condition of Woman and Child Wage Earners in the United States; Senate Document 645, Sixty-first Congress, second session. The quotation I have before me is not exactly the one I was looking for, but while I have it I will read it, to save the time of this committee and all others interested. In this report, on page 120, I quote as follows:

> The personnel of the family often accounts for migration from the farm to the cotton mill. The widow with children too young for farm work readily seizes the opportunity for her children to help in the support of the family at lighter work. The father who is disabled is also easily induced to bring his family from the farm to the mill, where he can get the benefit of his children's labor.
>
> Fathers whose only disablement is laziness are also easily induced to bring their families to the mill village for the same reasons, but the percentage of fathers of this kind found during the investigation was very small and leads to the conclusion that the extent to which these cases exist in southern mill villages has been very much exaggerated.

I am very glad that I ran across that, because I believe it was Representative Howard, from my neighboring State of Georgia, who laid some stress upon the proposition that this whole trouble hinged under the imposition of worthless and drunken fathers, or "drunken daddies," as he called them. The investigators have reported that that is grossly "exaggerated."

Farther down, on page 121 of this volume, we find this paragraph:

> Another type of family attracted to the cotton mill is that which has a predominance of females. Necessity may compel the women and girls to assist in the support of the family, and while the farm work is not suited to their strength the work at the mill, which is lighter and unaffected by the vicissitudes of the weather, is attractive to them.

Gentlemen, we will turn to the actual work that is being done by the children between the ages of 14 and 16 years in southern cotton mills.

Senator POMERENE. Are you speaking generally now, or of your own State?

Mr. ROBERTS. I am speaking generally; and I will speak more particularly of my own State.

The children working in the cotton mills invariably work in the spinning room. The process involved is what we have heard described here once or twice before to-day. The best way I can explain it to you, gentlemen, so that you can understand it is to say that it is even less of an effort to the child to do than it would be to tie a knot in a common piece of twine; but there is something a little unusual and out of the ordinary about that knot that the child ties. It is of such a nature that you and I could not possibly do it. If the child does not learn to do that when it is young, and when its fingers are supple and when it is capable of acquiring the necessary skill, it will never be able to do it. I do not mean to say that a child 16 years of age can not possibly learn to do it; but I will say that one of 16 years will never become as proficient in the art of spinning as one who has commenced at the age of 12 or 14. It is impossible. It is the same in the teaching of music or anything else that a child is forced to learn in school. You send them early, so

that they will acquire it when they are able to do it—when they are in a receptive condition. It is peculiarly true of this business that we are in.

It seems to me that there is a point that should be entitled to your serious consideration—that in legislating out of the mills children under a certain age you are legislating them out at a time when they are most likely to become proficient in their chosen life's work. It has an important bearing on the child's outlook on life.

In regard to the vital statistics, in which I notice you gentlemen take a great interest, it is well to bear in mind that because of these fundamental conditions, of which I have spoken and about which these reporters or these special agents were writing, that the frail and the weaker physical developments seek employment where the work is light. Therefore, that would have a tendency to make the vital statistics of any industry employing them very much against that industry as such. But to show you that the cotton-mill industry does not contribute to those conditions, the vital statistics do not prove that the death rate from tuberculosis and other diseases is any greater there than in any other line of human endeavor.

In connection with that, I have here a later volume from the United States Department of Labor, Royal Meeker, commissioner, in which he deals directly with the questions that I see you are all particularly interested in. It is entitled "Dangers to Workers from Dusts and Fumes and Methods of Protection."

Senator BRANDEGEE. What is the date of that, please?

Mr. ROBERTS. August 12, 1913, whole number 127.

He gives here a very brief description of various occupations, and he comes over to this particular one which we are discussing, "ring spinning." Everything that is being said here really has reference to what is taking place in a ring-spinning room, because that is the only place in the cotton mill where children work.

Senator BRANDEGEE. What page?

Mr. ROBERTS. This is on page 12; it is illustrated with a number of plates, and this is a description of plate No. 11, and he says here:

> Ring spinning: The roving now goes to the spinning machine, which may be either a "ring frame" or a "mule." Except for the noise of the machinery (which is very great, but is uninterrupted and unvarying) and for the loose cotton dust in the air of the room, the spinners in a modern well-regulated ring-spinning room—

Mark this, gentlemen—

> work under favorable conditions. Such a room is well ventilated, properly heated, has large windows and transoms which open, clean walls and ceilings, and is lighted by incandescent bulbs. The employees are mostly women, girls, and boys.

Over at plate No. 11 is given a picture of a ring spinning mill, or a ring spinning room, of a modern mill.

I may say, in connection with that, that, broadly speaking, that picture is typical of the ring-spinning room of nearly every southern cotton mill. One reason for that is that our southern mills are comparatively new. They are the modern type, as distinguished from those of the East, for instance, or the older spinning centers; and all of them, even those mills that are not the "show" mills have these same general inherent advantages, great, wide windows that are just one right next to another, as close as we can get them, all with

transoms that open; and they all have this peculiar advantage—that is, "peculiar" in its relations to the persons who work in those rooms; that the machines themselves are great, long affairs, and a little child 12 or 14 years of age can run four or five or six or seven or eight of them, and the result is that when you take a spinning room and put in its complement of boys and girls to operate that room, you have fewer people in there than you have in any other sheltered occupation in the world, I suppose; certainly very many less than you would have in a school room, or in a shoe factory, or any other factory that you might mention.

That means they get more fresh air; it certainly means that they get more sunlight and more daylight.

Those things are not things that the cotton-mill owners deserve any credit for. They are things that they have to provide. It is to their interest to provide them; but the workers get the benefit of it. This volume that you gentlemen are looking at [referring to report of the Department of Labor] and dealing especially with the so-called occupational diseases, reached the conclusion in the early pages of it there, that that is more or less of a myth, not only with relation to this particular industry, but to a very great many in other lines of human endeavor——

Senator LIPPITT. What is a "myth"?

Mr. ROBERTS. The occupational disease. It is not so much due to what you do, as it is to your own personal hygiene, as to how well you take care of yourself, whether you have fresh air when you sleep, whether you are working in a well-ventilated, well-lighted place—things like that. We used to think—I thought myself—that the lint in a cotton mill would actually produce tuberculosis. That no longer is even seriously considered.

The charge has been made that the work in the cotton mills is dangerous. I think the most practical answer to that assertion lies in the statement that the liability insurance companies of this country will insure children and other workers in cotton mills for a less rate per $100 of pay roll than they will any other occupation. To be exact, we pay in our little mill there at Anniston a rate of 30 cents; in other industries it runs from 50 cents on up to $4.

Senator LIPPITT. Thirty cents for what?

Mr. ROBERTS. For each $100 pay roll, for liability insurance.

Senator LIPPITT. Per annum?

Mr. ROBERTS. Per annum; yes, sir.

Senator CLAPP. For how much insurance?

Mr. ROBERTS. Based on the pay roll.

Senator LIPPITT. What is the liability of the insurance company?

Mr. ROBERTS. I think it is $10,000. It is different; sometimes they will have a condition of $2,500 for any one individual and total of $10,000 for all persons that may have been hurt in that accident.

Senator POMERENE. Have you any statistics showing what that liability rate is per capita as comparing children with adults?

Mr. ROBERTS. No, Senator; they make no distinctions whatever.

Senator POMERENE. I know, but I am not quite sure that you are justified in drawing the conclusion that you do. It is said—I am giving it as I understand it—that children are employed because it is cheaper to employ them; that is, you get more work per dollar of cost than you do when you have an adult. If that be so—I do not

ty it is so—then your conclusion would not shed any light upon the ase at all.

Mr. ROBERTS. Oh, yes; I think it would. It shows at once that it s not true. The mills in the South do not profit by child labor, ecause they are children. It would not make any difference to me n running our mill whether or not the individual who was running he frames was 14 years old or 40 years old. The pay would be so nuch per side. They work by the piece. That is one popular delu- ion in connection with this thing.

Senator LIPPITT. You would not be able to get adults to work at hat rate per side?

Mr. ROBERTS. They would not do it, because it is mere child's play; it is too trival for a grown-up person to do.

Just think of it; a little child 10 or 12 years old can come in there and do it, and they seem to want to do it.

Senator POMERENE. Do you have any children 10 or 12 years of age there?

Mr. ROBERTS. Oh, no. We have had in the past; but they could do it. That shows how little the actual strain of the work amounts to.

But, getting back to your proposition, even if that were true, it would not reverse the basis of my figures on liability insurance. It would simply mean that if we were working the children for a mere pittance that we would still be paying upon the hundreds of dollars of pay roll, so that the insurance company would be taking the risk for a greater number in proportion to the amount of pay roll; quite the reverse of what I think you had in your mind.

It strikes me that these liability insurance companies are pretty cold-blooded institutions. Why are they willing to come and make you a proposition to protect you against the liability for accidents in a cotton mill where you are working children? There can be but one reason, gentlemen, and that is because they have found from experience that there are so few accidents in those mills.

Senator POMERENE. I presume they take insurance wherever they can get it, whether adults or small children, so far as that matter is concerned, do they not?

Mr. ROBERTS. Yes; but they will come to the same town—the same accident insurance company—and they will write the risk at our mill for 30 cents and they will go over to the locomotive and machine works in our same neighborhood and charge them $4.50.

The CHAIRMAN. They classify those industries?

Mr. ROBERTS. Yes, sir; we are in the most-favored class. The same thing might be said of fire insurance. Farmers' liability insurance is very much higher; I think 50 per cent more than our rate. As to fire insurance, I do not suppose there is any structure on earth that takes any lower rate of fire insurance than the modern southern cotton mill. That is partly due to their slow-burning construction, partly due to the fire-fighting apparatus with which they are all equipped, but the fact remains that you can get insurance on a cotton mill for one-tenth of 1 per cent. That is what I pay. I presume on your home you are paying probably five or ten or twenty-five times that much for insurance.

Here is a rather succinct statement of my contention regarding the employers' liability insurance. It is available to cotton mills at the

lowest rate in existence, and it carries first aid, which is a provision for a surgeon at the company's expense, without regard to liability. In other words, for less than $1 per operator per year they will take the chance of personal injuries, pay the doctor's bill without question, settle liberally if there is liability, defend lawsuits, and pay judgments, and yet they make money out of the business or they would not keep it up.

Senator BRANDEGEE. What document have you before you now?

Mr. ROBERTS. One that I published myself—page 6.

Senator POINDEXTER. What is the title of it?

Mr. ROBERTS. "The Child Labor Mania." That is what it strikes me this proposition is. In Alabama we have a law that makes it a condition precedent to the employment of a child under 16 years of age that that child must have attended school 12 weeks. And after the employment——

Senator THOMPSON. Per year?

Mr. ROBERTS. Per year. And after the employment of that child it must have had schooling 8 weeks out of each year in addition to the 12 weeks it had before it got the job.

Of course, there is no reason under the sun why a cotton mill should be singled out and burdened with that responsibility. But they have not resisted it. We do not resist it, for the very simple reason that the more proficient and efficient we can make these children the more we can make out out of them. It is to our interest to improve their conditions mentally, morally, and physically, and we are doing it.

Senator BRANDEGEE. Do their wages go on while they are going to school these eight weeks?

Mr. ROBERTS. No, sir.

Senator BRANDEGEE. How is that law expensive?

Mr. ROBERTS. Because, we have to pay the schooling; yes, indeed. You could not get the public schools to take children for any split-up terms.

Senator POMERENE. Do you have private schools?

Senator THOMPSON. In connection with the mills?

Mr. ROBERTS. It is in connection with the mills. We have three mills at our end of the town, and we have combined with the Young Women's Christian Association in the maintenance of a school, almost the year around.

Senator POMERENE. What length of time must the children who are not employed in the mill attend school?

Mr. ROBERTS. They have to attend school 12 weeks before they can be employed.

Senator POMERENE. I understand that; but you spoke about your being to this special expense and the amount of time that they must attend school. Were those children who are employed?

Mr. ROBERTS. Yes, sir.

Senator POMERENE. Does that generally apply to all children?

Mr. ROBERTS. Yes, sir.

Senator POMERENE. What sort of a general law have you in your State?

Mr. ROBERTS. The general compulsory education law?

Senator POMERENE. Yes.

Mr. ROBERTS. We have none. It only shows to you that if you want to work these children under 16 years of age you must see to it that they get a schooling. Of course, that is not fair to us; but the point I make is that these cotton-mill owners have not fought that provision; but, instead, have gone on and done everything in the world they could to promote the best interests of the child, because it was to their interest to do it.

I speak of it in that way because I want to show you, gentlemen, that we are not four-flushing; I want to show you that the relative position of those children working in the southern cotton mills is secure, because their advancement is to the interest of their employers to-day. That is the point.

I read this excerpt from the remarks of Mr. Scott. I failed to tell you that I could not understand how any man could make that statement in the face of the invitation that the Labor Committee received from the cotton mills to go South and investigate these conditions for themselves. That invitation was made and most cordially and urgently made, and was not accepted. I understand it will be extended to you gentlemen. I sincerely hope that you will all accept it. I really believe that it does not matter so much in the long run what you do to us, but you are in serious danger of working the gravest injury to the most dependent members of society that live in the South. I can not speak of conditions elsewhere because I do not know them, except fundamentally. I say that it is a proposition that is fraught with the gravest probabilities to say to a young boy: "It matters not what happens to you, you shall not work." It is a retroversion of the very highest human philosophy since the beginning of time.

Senator POMERENE. You do not mean to say that this bill says that?

Mr. ROBERTS. It certainly does. It says that a child under 14 and between 14 and 16 years can not work to exceed eight hours a day.

Senator POMERENE. That is a different thing.

Mr. ROBERTS. It is, in your mind; but, practically speaking, and so far as southern cotton mills are concerned, it blasts his chances, because he can not get work at 8 hours a day, as Capt. Smyth tried to explain to you this morning.

Senator POMERENE. Why are the conditions so different in your section of the country from what they are in other sections where they have adopted similar laws?

Mr. ROBERTS. I have just stated, sir, that I can not explain to you why conditions are different. Suffice it to say that they are different; therefore the State should be left to handle them.

Senator LIPPITT. Do you know of any State where they have adopted a law that prevents children from working more than 8 hours?

Mr. ROBERTS. I do not get that.

Senator LIPPITT. I say, do you know of any State—the Senator from Ohio asked you why the conditions should be different in your community from what it was in States where they had adopted such laws—I ask for information, if there is any State in your knowledge that has adopted a law that prevents children working more than 8 hours.

Senator CLAPP. Senator Lippitt, I put a statement in the record before you came in giving some 19 States that limit the working hours for children under 16, including Massachusetts and New York.

Senator LIPPITT. When did the law in Massachusetts go into effect?

Senator CLAPP. I could not tell you.

Senator THOMPSON. Read those off.

Senator CLAPP. I do not know that the committee cares to have it all read.

Senator THOMPSON. I mean just the names of the States.

Senator CLAPP (reading).

Arizona, Arkansas, California, District of Columbia, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New York, North Dakota, Ohio, Oklahoma, and Wisconsin.

Senator LIPPITT. Does that prevent them from working on farms or mills or what?

Senator CLAPP. All I can say is that it provides an 8-hour day under 16 years in factories.

Senator LIPPITT. We will not interrupt the witness; I will look at this [referring to statement introduced at the commencement of the afternoon session by Senator Clapp].

Mr. ROBERTS. Gentlemen, for the sake of getting down to the crux of the argument, we will put the age limit at 14 years. The proposition will certainly hold that this bill is in the position of saying that if you are under 14 years of age you shall not work for a living, no matter what your conditions are.

Gentlemen, we might sit here——

Senator CLAPP. Just a moment. Have you any regulation on this subject in Alabama?

Mr. ROBERTS. Yes, sir.

Senator CLAPP. What is that?

Mr. ROBERTS. Sixty hours a week, 12 weeks of schooling before employment and eight weeks schooling during employment.

Senator CLAPP. You were speaking a while ago of liability insurance. Have you any employer's liability law in Alabama?

Mr. ROBERTS. No, sir.

Senator CLAPP. No workingmen's compensation act there?

Mr. ROBERTS. No, sir; we have not.

Senator UNDERWOOD. Mr. Roberts, we have an employer's liability act, but not workingmen's compensation act.

Mr. ROBERTS. I did not know that; I beg your pardon, Senator.

Senator UNDERWOOD. Alabama had one of the first employer's liability acts.

Senator CLAPP. I understood that. I was a little surprised at his answer.

Mr. ROBERTS. I beg your pardon; I really did not know it. I am not a lawyer; I am just a business man, and I know I have to carry liability insurance, and that is what it costs me to get it.

I was saying to them, Senator La Follette, before you came in, that we obtain that liability insurance for less than any other occupation, and it is a point well worth considering by a man who has been under the impression that there are any inherent dangers in the work of cotton spinning.

In regard to the condition of these people who are working in these mills, I do not know anything better that I can do than to

refer you to the report of Dr. W. H. Oates, State factory inspector, Alabama, on page 9 of the annual report for year ending December 31, 1912:

The environment and surroundings to which these recruits are moved are, as a rule, inestimably superior to those in which they have been living.

Now, gentlemen, this man is supported by the agitators, and these are his words:

The so-called homes from which they come may be described in most cases as being totally void of civilization, education, sanitation, and hygiene. Frequently a man and a wife with four or five children live, or rather exist, in one or two rooms. They are absolutely illiterate; can not read or write, and eke out a miserable existence by ignorantly farming a few acres of land. In a vast majority of cases they have hookworms, are dull, listless, and apathetic, have little to say, and, in fact, I might say, are a race within a race.

That is the concluding paragraph of the annual statement of the State factory inspector, and he is borne out by the facts. If you gentlemen do not believe that the condition of these children are improved by going to the mills, go there and look at them. I say that any man with common sense can see it on the very faces of the two generations that are there. The children every time are beyond comparison with their own fathers and mothers. If you gentlemen do not believe those things, if you have any doubt about it, and if there has been so much confusion in all such reports as this that have been sent out here, and a great mass of statistics—statistics until you are just sick of it—go yourself and look at them. There is not anything about this proposition that you can not see. There is nothing to the technical or theoretical part of it that requires an expert. Any man can see it for himself if he will go and look.

I wish to quote again from the Congressional Record, this time from the address of Hon. William J. Cary, of Wisconsin. He says:

There is no necessity—absolutely none whatever—for the employment of young children in a factory of any kind, and no excuse for it either. The only reason why it is done is to swell the pockets of an already too wealthy manufacturer who pays starvation wages, and, not content with earning enormous dividends at the expense of adult manhood, lowering the standard of his workman's living that he may feast more luxuriously, but must drag childhood into his devil's maelstrom and grind youth and all that it means into pulp of wrecked humanity to satisfy his extravagances and satisfy his lust for wealth and power.

What rot.

The southern cotton mills have done more for the people that they employ, and have gained by it personally less in proportion to their service than any other class of people that ever lived; and if you do not believe it come down there and see for yourselves.

I will quote again from this pamphlet of my own, on page 10. It gets down to the kernel of this question:

I would not put my own boy at work, though it might be best for him to work a part of the time. But I am deeply opposed to having him outlawed from making a living if he should be suddenly thrown on his own resources, with the option to beg, steal, or starve until he reaches an age acceptable to these so-called uplifters.

What are you going to do with the boy? Put yourself in his place. Your father dies and you have a mother dependent upon you. Now, to save argument, we will just come right down to what that ultimately reaches every time, and that is that the State should provide

mother's pensions, and that has already been done in several States. I will agree with you to a certain extent, but I put it to you as man to man: Would you like to look back upon a boyhood sustained by a public charity? You say, "I would not feel that way about it; it would be mine by law." I say it would be no more yours by law than the county poorhouse is yours by law to-day. Yet, how would you feel if you had to say to your friends, "Yes; my mother went to the poorhouse; I was 12 or 14 years old and able-bodied and could have worked and kept her from doing it, but the poorhouse was hers by law and I let her go, and I went myself"?

Do you wish to look back—do you wish to have any boy look back upon that condition, when he could do what you all had to do, go to work and make an honest living?

It is very unfortunate that there is such a difference in men. It is true they are born equal, but the conditions change every day. If you were to apportion the world's wealth equally, in 30 minutes there would be a realignment; some of them would be broke and some of the others would have it all. I do not know why that is, but it is another way of saying that the "poor we have with us always," and we always will.

Senator BRANDEGEE. At what time do these children have to come to work in the morning?

Mr. ROBERTS. Six o'clock.

Senator BRANDEGEE. At what time do they go home in the afternoon?

Mr. ROBERTS. Six o'clock.

Senator BRANDEGEE. Do they get their lunch at the mill?

Mr. ROBERTS. I should have said that they leave the mill at 5.30. I beg your pardon. Now, answering your last question, yes, sir; the mill and the village are right there together.

Senator BRANDEGEE. How much time do they get off at noon?

Mr. ROBERTS. Half an hour.

Senator BRANDEGEE. At other mills, in States where they have this eight-hour law for children, they get along with it some way or other; I do not know how. It has been explained satisfactorily before the committee. Are you not able to state whether, if your mill should be compelled to reduce the hours of employment of these children from 10 to 8, there is no alternative between putting your mill on an eight-hour basis or discharging these children?

Mr. ROBERTS. I do not see any.

Senator BRANDEGEE. You can not conceive how these other mills, in other States, can do it?

Mr. ROBERTS. No, sir; I know nothing of them.

Senator BRANDEGEE. We will get that information from some witness later.

Senator THOMPSON. I understand your statement is 11½ hours?

Mr. ROBERTS. It is 11 hours.

Senator THOMPSON. You take a half hour off at noon?

Mr. ROBERTS. Yes; I am very glad you spoke of that, because it brings to light a very important thing as to the question of the lightness of this work. In our State we have passed a law permitting 60 hours a week. We immediately went to 10 hours a day every day. We prefer that; the owners prefer it.

Senator THOMPSON. Are the children really allowed this one-half hour of their own at noon?

Mr. ROBERTS. Oh, no; no worker is.

Senator THOMPSON. In any employment?

Mr. ROBERTS. Not that I know of.

Senator LIPPITT. The children have one-half hour at 12 o'clock for lunch?

Mr. ROBERTS. The mill shuts down half an hour. I beg your pardon.

Senator THOMPSON. But you charge it up to them, and make them work half an hour later at night?

Senator LIPPITT. How many hours do they work?

Mr. ROBERTS. They start at 6, stop at 12, begin again at 12.30, and work until 5.30.

Senator LIPPITT. How many hours a week?

Mr. ROBERTS. Sixty.

Senator LIPPITT. Ten hours a day?

Mr. ROBERTS. Therefore they only put in five hours on Saturday.

Senator LIPPITT. Eleven hours, actual work?

Mr. ROBERTS. That is, 11 hours they are supposed to be on duty; it is not actual work. I am coming to that right now.

These children, every one of them, protested against the 10-hour day. They said, "If we can work 60 hours a week, let us work just as much as we can in the first five days of the week, so as to reduce the hours on our holiday, Saturday."

Senator BRANDEGEE. How much do your children employees make a day?

Mr. ROBERTS. Seventy-five cents to a dollar a day.

Senator LIPPITT. We are talking about——

Mr. ROBERTS. Alabama.

Senator LIPPITT. You mean the law of Alabama compels you to work 10 hours every day and 60 hours a week?

Mr. ROBERTS. Our law is 60 hours a week, not more than 11 hours in any one day.

Senator LIPPITT. I thought you said you went on 10 hours a day?

Mr. ROBERTS. So we did, as soon as that law went into effect, because we preferred it; but the point I am trying to make is that the children said——

Senator LIPPITT. Why did you not do it before the law went into effect?

Mr. ROBERTS. Why did we not go to 10 hours?

Senator LIPPITT. Why did you not run even hours as you do now? As I understand it, the law allowed you to have a half holiday if you chose to proportion your hours that way?

Mr. ROBERTS. Yes.

Senator LIPPITT. But, instead of having a half holiday Saturday, you run even hours every day; is that it?

Mr. ROBERTS. No; we formerly ran 11½ hours five days and 8½ hours on Saturday.

Senator LIPPITT. How many hours do you run Saturday now?

Mr. ROBERTS. Five; and shut down at 11 o'clock. At the time this last law went into effect we were running 63 hours a week. You see, the children are all paid by the piecework, and they want to work just as much as you will allow them to do.

Senator THOMPSON. As a matter of fact, Mr. Roberts, is it not, after all a financial proposition, that you are simply making more money by having longer hours?

Mr. ROBERTS. I do not think so. I would much prefer to work these children 10 hours a day than to work them 11.

Senator LA FOLLETTE. When did this 10-hour law go into effect?

Mr. ROBERTS. Last September a year ago—that is, 10 hours, with the option of 11 hours for five days, and 5 hours the sixth day—you understand, Senator?

Senator THOMPSON. What is the reason an eight-hour law can not be established and maintained, then?

Mr. ROBERTS. I do not know. I have never asserted it could not be. I only say that you can not work a part of the mill 8 hours and the other 10 hours. If the purpose of this bill is to regulate the hours of labor, we are——

Senator THOMPSON. The object is to reduce the hours of labor for children?

Mr. ROBERTS. That is what I am trying to explain, that you can not do that without reducing all the rest.

Senator POMERENE. Did your manufacturers all voluntarily cut the hours from 11 to 10?

Mr. ROBERTS. Some of them did. There was no concerted action about it whatever. A great many of them contended——

Senator POMERENE. Your statement was that you preferred it in that way.

Mr. ROBERTS. I say I did prefer it. If I am going to work 60 hours a week, I prefer to work 10 hours in each day.

Senator POMERENE. Why was it that before this law went into effect you worked these children 10 hours a day? You could have reduced that voluntarily just as well without the law as with it?

Mr. ROBERTS. No; not when the child wanted to work that time.

Senator ROBINSON. Do you pay by the day or piecework?

Mr. ROBERTS. We pay them by the side-hour in the spinning room.

Senator ROBINSON. Side-hours?

Mr. ROBERTS. Yes, sir.

Senator ROBINSON. What does that mean?

Mr. ROBERTS. If a girl runs eight sides, and I am paying her a cent and a half per side-hour, you can very easily calculate what she would make. If she is making a cent and a half per side-hour, and running eight of them, that would be 12 cents per hour she was making—do you see? And if she runs 10 hours she would make $1.20, or for 11 hours $1.32, at that rate.

Of course, you gentlemen are going to find when you come South that the help—the children included, who are the ones you are concerned with here—want you to let them work just as much as possible, because that is the way they are going to be paid.

Senator LIPPITT. Do you think they would like to work 12 hours?

Mr. ROBERTS. I think they would.

Senator LIPPITT. Do you think they would rather work 12 than 13?

Mr. ROBERTS. I do not know; they might. It is a matter of amazement to me——

Senator LIPPITT. In your honest opinion, do you think they would rather work 10 hours than 12?

Mr. ROBERTS. If they get the same pay. Their main contention seems to be in connection with that, that this work "is so light that we do not care anything about it. The only thing with us is that we want as much holiday on Saturday as we can get." They make their greatest point on that.

Senator LA FOLLETTE. What are the wages for children between 14 and 16 years of age when they are working 12 hours a day?

Mr. ROBERTS. The wages were the same per hour; that is, they have always earned in proportion to the work that they did. There has not been any material change in it.

Senator LA FOLLETTE. Twelve cents an hour?

Mr. ROBERTS. It is equivalent to that. Some mills pay so much per hour, some per side hours, but it all comes down to that.

Senator LA FOLLETTE. One and a half cents?

Mr. ROBERTS. Per side per day; it will average near that.

Senator THOMPSON. One side of the machinery?

Mr. ROBERTS. One side of a spinning frame.

Senator LA FOLLETTE. What would be the total amount of daily wages, to put it in another way?

Mr. ROBERTS. Of children between 14 and 16 years of age?

Senator LA FOLLETTE. Yes, sir.

Mr. ROBERTS. I should say it would average something like a dollar a day.

Senator THOMPSON. That is, according to their ability to take care of these sides you are speaking about?

Mr. ROBERTS. Yes; in that connection it is always well to remember, however, that if a child starts early enough they can become so proficient in the art of spinning—and it is an art, gentlemen, there is no doubt about that—they can easily make a dollar a day in a cotton mill.

Senator LA FOLLETTE. How does their wage-earning capacity compare with the adult spinners?

Mr. ROBERTS. I do not know any adult spinners.

Senator LA FOLLETTE. But the children do weave?

Mr. ROBERTS. Oh, no.

Senator LA FOLLETTE. The children do all of the spinning that is done in your mill?

Mr. ROBERTS. Yes, sir; and in every other mill. We are dealing with spinning and with ring spinning, gentlemen; just keep that in mind in connection with these cotton-mill wages, that it is the ring spinning we are dealing with.

Senator POINDEXTER. How young do you work children; what is the minimum age?

Mr. ROBERTS. It will be 14 on the 1st of September of this year.

Senator POINDEXTER. What is it now?

Mr. ROBERTS. Thirteen.

Senator LA FOLLETTE. What was it before that?

Mr. ROBERTS. Twelve.

Senator LA FOLLETTE. And for how long had it been 12?

Mr. ROBERTS. Four or five years.

Senator LA FOLLETTE. What was it before that?

Mr. ROBERTS. Eleven.

Senator THOMPSON. That is done by State legislation?

Mr. ROBERTS. Yes, sir.

Senator POINDEXTER. Pursuing it further, when was the 11-year age limit?

Mr. ROBERTS. You have gone back a little too far for me; I have only been in the business 10 years, and I do not know, but I do know that a good many people went into the mill even at 9 years of age, and they have grown to be great, strapping, strong, vigorous men.

Senator THOMPSON. The people of your own State fairly familiar with this business have been gradually reducing the age?

Mr. ROBERTS. Yes, sir.

I will tell you about that. I do not pretend for a minute that children 12 years of age or even 14 years of age are an asset to me in the mill business, except to this extent: That if you do not let them learn how to spin when they are able to learn it, it affects their value to me later on.

Senator POMERENE. How young should they be in order to begin?

Mr. ROBERTS. That depends on the condition of the child; if it is a normal, healthy, vigorous child, I think they ought to be allowed to get their first rudiments of spinning at 11 or 12 years of age. I think there ought to be some provision made here for these people to learn it. The whole United States is ringing with the proposition of manual training and vocational training, and yet here we are trying to break up the most practical application of it in this country.

Senator THOMPSON. You say when they become most proficient they earn about a dollar a day?

Mr. ROBERTS. In spinning some of them earn more than that.

Senator THOMPSON. They can not remain in that business then very long, and will have to pass out of that?

Mr. ROBERTS. They will not remain in it very long, but they can always do it; it is their stock in trade, and they are always in demand, good spinners are. If things do not go well with them in whatever undertaking they may be in, they can fall back on that; that is a job they can always get.

Senator LA FOLLETTE. At what age do they pass from spinning to weaving?

Mr. ROBERTS. Senator La Follette, I have no looms. I should say, however, that about 18 years of age. There are other gentlemen here qualified to speak about that; I know very little about it, except that I know that these pictures you have seen in the papers of children running looms are purely the figment of somebody's imagination. The child can not do that.

Let us be perfectly clear on one thing: That the principal thing I am interested in, that the cotton-mill owner is interested in, is not to take away from him his supply of skilled help. If he can not get it—I want to impress that on everybody—if you shut them out of the mill at the time they are able to acquire it.

When you gentlemen come South—and I am confident that you will—go in that mill and watch that twirling spindle, and put your fingers on it and it will break. Call that little girl over and she will take it in her fingers, pull it up, down, and do anything else with it, and put it back and it goes on.

Senator LIPPITT. You mean the thread, not the spindle?

Mr. ROBERTS. I am talking about the end. If you will take that end and touch it yourself, you will break it; and you might stay

there a hundred years and you would never learn how to do otherwise.

Senator POMERENE. This is not speaking of taking away your supply of labor; it is simply placing a limit upon the hours they shall be employed.

Mr. ROBERTS. The hours?

Senator POMERENE. And the age.

Mr. ROBERTS. And if that has that effect it seems to me——

Senator POMERENE. Let me ask you a question or two. How many people are employed in your mill?

Mr. ROBERTS. About a hundred.

Senator POMERENE. And what proportion of those are between the ages of 14 and 16 years?

Mr. ROBERTS. I am not positive, but I should say a dozen.

Senator POMERENE. A dozen between 14 and 16?

Mr. ROBERTS. Between 13 and 16.

Senator POMERENE. How many below 13?

Mr. ROBERTS. None.

Senator LA FOLLETTE. Then this would not seriously affect your mill?

Mr. ROBERTS. That is what I have stated several times, that it would not seriously affect us, sir, except that if you cut off the supply of spinners it would seriously affect all of us.

Senator POMERENE. You apparently, in your own mill, do not regard it politic, for one reason or another, to employ children younger than 16?

Mr. ROBERTS. No, sir; I will not state that; that is not an extraordinarily small number; I have an extraordinarily small mill.

Senator POMERENE. You have 1,200 people?

Mr. ROBERTS. One hundred.

Senator POMERENE. I beg your pardon.

Mr. ROBERTS. I am quite glad I have not 1,200.

Senator POMERENE. That is what I understood you.

Senator THOMPSON. You only have 12 under 16?

Mr. ROBERTS. Yes, sir; I should say something like that; maybe a little more and maybe a little less; I have not looked into the statistics.

Senator THOMPSON. Is your concern a private enterprise or a corporation?

Mr. ROBERTS. Purely private. It is a corporation, but it is owned by two of us. It is all Alabama money and Alabama men, and we are struggling along with it and making a success, and I think we are going to continue. We have made a fair success, and it is not a brag mill; it is not a show mill, by any means. It is situated in the center of a populous little town. Nevertheless, I will be glad to have you come there and see it at its very worst, without notice to me.

Senator ROBINSON. What do you mean by "show mill"?

Mr. ROBERTS. It has been said in these hearings that some mills are really magnificent—beautiful gymnasiums, swimming pools, Y. M. C. A.'s, day schools, night schools, day nurseries, and hospitals that are really marvels and a credit to any civilization.

Senator ROBINSON. There are only a comparatively few of them maintained that way?

Mr. ROBERTS. Oh, yes; it takes a pretty big concern to do that.
Senator ROBINSON. The ordinary mill is not run on that basis?
Mr. ROBERTS. In a way it is.
Senator LIPPITT. I would like to ask if that is not the whole tendency to provide those sort of things?
Mr. ROBERTS. Yes; and I will be frank enough to say it is to the interest of the owners.
Senator LIPPITT. Is it not done more and more absolutely voluntarily by the owners of the mill?
Mr. ROBERTS. Yes, because it pays them to do it.
Senator LIPPITT. Not only in the South, but in Illinois?
Mr. ROBERTS. I do not know about the North, but they are doing it a great deal in the South.
Senator ROBINSON. A mill which only employs 100 persons could not maintain those facilities for amusement; and it could only be a mill where the output was so great and the number of persons employed so great that it would justify an expenditure of that sort; a small mill could not do it; and they do not do it, do they?
Mr. ROBERTS. In effect, they do.
Senator ROBINSON. What do you mean by "in effect"?
Mr. ROBERTS. We do everything in the world that we possibly can to help their condition.
Senator ROBINSON. Have you got a swimming pool in your mill?
Mr. ROBERTS. No, sir.
Senator THOMPSON. Have you got a gymnasium?
Mr. ROBERTS. No; we have a playground.
Senator ROBINSON. Do you have a baseball team among your workers?
Mr. ROBERTS. Yes; they have a baseball team, and they play baseball while the work is going on. You can see it there any time you go.
Senator ROBINSON. How long have you been in the business?
Mr. ROBERTS. Ten years.
Senator ROBINSON. Do you keep any statistics as to the health, the number of accidents, and number of deaths among your employees?
Mr. ROBERTS. We dealt with that as to accidents here at some length.
Senator ROBINSON. You have already stated that?
Mr. ROBERTS. Yes, sir.
Senator ROBINSON. All right.
Mr. ROBERTS. But, as to the vital statistics, we have kept none; but in the 10 years that I have been there I can truthfully say there has been no death of any child over 5 or under 21 from any cause.
Senator ROBINSON. Not one?
Mr. ROBERTS. Not one over 5 or under 21. There may have been some infants and some older persons.
Senator LIPPITT. You mean no deaths?
Mr. ROBERTS. In the village.
Senator LIPPITT. Nobody has died between 5 and 21 years of age?
Mr. ROBERTS. Not in the 10 years I have had it.
Senator LIPPITT. I guess we all had better go and live there.
Senator THOMPSON. I thought you said between 5 and 21 years of age?

Mr. ROBERTS. So I did.

Senator LIPPITT. He said between 5 and 21 years in that village in 10 years.

Mr. ROBERTS. In the 10 years I have been there. I can see nothing remarkable about that statement.

Senator ROBINSON. Then you have never had a child employee of the mill to die since you have been operating it?

Mr. ROBERTS. Not one.

Senator ROBINSON. Do you know of any cases of tuberculosis among your people.

Mr. ROBERTS. Not one.

Senator THOMPSON. Have you had any severe injuries in the plant—accidents?

Mr. ROBERTS. Yes; one. A boy of 19 had his hand seriously injured in our card room four or five years ago.

Senator ROBINSON. About how many children, all told, have you had employed during that 10 years? I want to find the value of that statement that there has been no mortality whatever among them during 10 years. You say you have approximately a dozen now?

Mr. ROBERTS. Yes.

Senator LIPPITT. How many people have you in your mill to-day below 21 years of age, approximately—75?

Mr. ROBERTS. I should say 50 of them.

Senator LIPPITT. One-half of them?

Mr. ROBERTS. Yes, sir; just about.

Senator LIPPITT. What number of yarn do you spin?

Mr. ROBERTS. Twelve to twenty-four on the cones knitting.

Senator LIPPITT. Do you export it?

Mr. ROBERTS. Yes, sir; try to.

Senator LIPPITT. Where to?

Mr. ROBERTS. I have only made one shipment; it went to South America since the war.

Senator LIPPITT. But before the war you were not in the habit of exporting?

Mr. ROBERTS. No, sir. I am very glad you spoke of that also, as I have no doubt that if this law goes into effect and children under 16 years of age are excluded, which they will be, gentlemen, that I shall suffer from the competition of foreign-made goods. I think we are going to suffer, anyhow.

In this particular it might: I would like to have a fair fight with them. I do not want them to have any particular advantage over me.

Gentlemen, I think I have about covered the situation, if there are not some questions you would like to ask me.

Mr. KITCHIN. I will now introduce Mr. J. M. Davis, from Newberry, S. C.

STATEMENT OF MR. J. M. DAVIS, SUPERINTENDENT NEWBERRY COTTON MILLS, NEWBERRY, S. C.

The CHAIRMAN. Please state your name, occupation, and residence.

Mr. DAVIS. My name is J. M. Davis. I am superintendent of the Newberry cotton mill, Newberry, S. C.; age 44.

Gentlemen, I assume I am the practical end of this corps of witnesses.

I have been in the cotton-mill business 30 years. I went into it when I was 13 years old, and I have read a good deal in these investigations before Congress about the "widow," and I have noticed the expression on the faces of those present whenever the widow is mentioned; they would smile; but I want to tell you, gentlemen—I made up my mind not to mention the widow question—I feel this way about it: I am the son of a widow. My father died when I was 2 years old, and I have a sister one year younger than myself, and I went into the mill when I was 13 years old. I have charge of the Newberry Cotton Mill, and have had charge of that mill for 15 years, and I want to call your attention to a few things in connection with this bill. In the first place, I want to try to make it clear to you what is required of children in a cotton mill. I think that is something that would be vital. The question of ring spinning has been brought up here at this meeting time and again. So I have a ring with me. [Exhibiting ring to the committee.] Spinning and doffing is the work that the children do in the cotton mill. The spinners are the girls, and it is their duty to keep these threads [illustrating] in running order. This ring is fastened onto a rail the length of the spinning frame, and this thread is passed under a traveler. I have quite a number on that ring, but they only use one traveler to each ring. This thread is passed under the traveler and placed on rolls delivered to this bobbin. That is the kind of work that a spinner will do.

The stock is being delivered through these rolls, and if this thread is not running—is broken down—that stock is coming through just as well, but it is not spinning. Therefore it takes an expert to be enabled to connect this thread with the stock coming through and at the same time not allow it to break down. The doffer's—the boy's—duties require him to take these full bobbins off and place empty ones on this spindle; and he does not have to do that except when they get filled up. When they get full is when they doff. They work just about one-half the time.

My mill is a coarse mill; it is a large mill; it is, perhaps, one of the best mills—I am not going to tell you gentlemen it is not; I believe it is; naturally, I do. I have been there 30 years and I have had charge of it 15, and I would be ashamed of it if I did not think it was one of the best.

We have facilities for the improvement of our people not found in all mills; but I want to call your attention to this fact: The very fact that we have them indicates the attitude of the management toward the help. If the management—the corporation—the concern that is worth $1,000,000, working 700 people, looking at it from a cold business standpoint—viewed those people as machines and nothing except machines, to acquire the greatest amount of production in the smallest possible time, do you suppose that they would have expended thousands of dollars for the purpose of improving these people?

Naturally, we have none of the children here that this law will affect to exhibit, and I do not know whether you would be interested in seeing the photograph of them or not. When I was asked to come

here on Saturday morning—we closed down at noontime, just the same as other mills in the South—about 8 o'clock, and I conceived the idea of presenting to you gentlemen a photograph of the children I had in the mill that this law would apply to—and I have 78, to be absolutely correct. I made an effort to get every one of those children in four groups. I succeeded in getting 43 of them, in groups of 13 years, 14 years, 15 years, and up to 16 years. I would be very glad if you gentlemen would like to see these photographs.

(At this point Mr. Davis produced four photographs, which were examined by the members of the committee.)

Senator THOMPSON. You say you have 78 children?

Mr. DAVIS. I have 78, but I only succeeded in getting 43 photographed at that late hour.

I have indicated on those photographs by cross mark the children who have come from the country in the last three years. A large percentage of my people have been with me for many, many years. In fact, recently I investigated and found 37 families that have been connected with our mill for 35 years continuously. At the same time we get some country people every year, and we have some people who move to the farm occasionally. Those are the photographs of actual children working in the very cotton mill I am superintendent of. The ages are indicated on the back of the photograph.

Senator ROBINSON. Are these pictures taken in the clothing worn when at work?

Mr. DAVIS. They were not; they were taken on Saturday afternoon.

Senator ROBINSON. A holiday?

Mr. DAVIS. Yes, sir. In fact, those people would not want their pictures taken that way any more than any one else.

Senator ROBINSON. I understand that.

Mr. DAVIS. They have a certain amount of pride. It is not necessary to wear fine clothing in a cotton mill; in fact, it is expensive and absolutely unnecessary.

Senator POINDEXTER. These cross marks indicate one coming from the country within what period?

Mr. DAVIS. Three years. There is one in particular I want to call your attention to. I think it is in the thirteenth year, which has two cross marks.

Senator THOMPSON. A girl?

Senator POINDEXTER. Fifteenth, I think, is it not?

Mr. DAVIS. Look at the thirteenth.

Senator POINDEXTER. Here is one with two cross marks [indicating].

Mr. DAVIS. That is it. I would like to tell you about that boy and his father.

Senator THOMPSON. This is the boy here [indicating]?

Mr. DAVIS. The father of that boy came into my office about the middle of November.

Senator POINDEXTER. This last November?

Mr. DAVIS. Yes, sir. He asked me for a position. I told him that I was filled up; I did not have any; could not put him on. He came back December 1st and asked me to find him a place. I told him I was filled up; I could not find him any place; I had absolutely no empty house in the entire village.

On December 10 I came into my office and found Mr. and Mrs. Mills sitting there. The father of this boy is about 50 years old; his wife is about 45, I should judge, and she said to me:

Mr. Davis, Mr. Mills has returned from your place two different times reporting that he was unable to secure work. I have come now to tell you that we must have work. I do not want you to tell me that there is no room vacant in your village that you can give us, because it is a matter of desperate necessity. We live 20 miles out here in the country. We have almost nothing in the home; no clothes; and we are on the point of starvation.

Gentlemen, it would be of no interest to me to stand here and tell you that unless it was true, absolutely. The man and his wife and children are at my place to-day.

I told that woman: "I will provide a place for you. Come."

In three days she came in, and in the meantime I had secured a three-room cottage for them. She said:

Mr. Davis, if you find another family in bad shape as we are, and have no empty house in which to put them, you let me know it and I will make arrangements to let them have one room of my home, because I feel that if there is another family in this whole community in such straits as we are, that somebody ought to take them in.

To-day that family is with me. That father has two sons, one in his fifteenth year; and the reason I did not get his picture is because he was off with the Boy Scouts. We have the Boy Scouts there in our mill village, and I would have secured quite a number of other boys for the picture, but they were off on a hike, and I was unable to get them. They had already made the arrangements to go when I conceived the idea of getting the photographs. That son there [indicating on photograph] is making 50 cents a day, his brother $1, and the old gentleman $1; making $2.50, or $63.50 a month, and they are paying $1.50 house rent.

Senator POINDEXTER. $1.50 a month?

Mr. DAVIS. $1.50 a month; and he feels richer to-day, perhaps, than any of us, because he was right at the place where he felt, and his wife did, too, that they were in a desperate condition.

I am not telling you gentlemen that this is universal in our community; no. But I tell you this, that in the past 10 or 15 years I have had charge of the Newberry Cotton Mill, I have got more pleasure out of doing things for other people along that line than I have in operating the mill. There is an obligation, gentlemen, that we are under to humanity. Whenever we bring a crowd of people together in close proximity we are responsible not only for the character of the employment, but we are responsible for the environments of those people. We provide the homes; we design the homes; we select the lots and the size of the lots; we provide the sanitary conditions; and we are responsible, to a large extent, for the entire environment which surrounds these people. If I had to operate a cotton mill on a pure, cold-blooded business basis, just simply to make money for the stockholders—and that is the primary object, of course, and that is one of my duties—if I had to do that just from a sordid business viewpoint, I would resign to-day. But it carries with it the humane thought of being able to do something for others that are unable to do for themselves.

We have at Newberry Cotton Mill a good mill, and we have provided for our people.

I want to show you several photographs exhibiting conditions about our plant. I have several of these, but I am afraid I might wear you gentlemen out. Doubtless this thing has come up before. Here is a photograph [indicating] showing the character of the people. It is a photograph of a Sunday-school class. That was not taken especially for this occasion, as were those first four photographs. That is simply a photograph of a Sunday-school class, and I have three others at the hotel, showing the faces of the people that are working in our mill.

Senator THOMPSON. How many people have you employed?

Mr. DAVIS. Seven hundred, in round numbers. I should think it might be 695.

Senator THOMPSON. What sized corporation have you, as to capital?

Mr. DAVIS. One million dollars.

We have connected with the mill also play grounds, recreation grounds, a bathhouse for the people. Why, the people who compose the operators or employees in the Newberry Cotton Mill came right from the soil, and I will venture to say, gentlemen, that they certainly had no access to the very primary sanitary conditions which a home should have in the country. The conditions of a poor renter on the farm, who had to make his living and then give half of it to some one else can not possibly hope to have anything.

That [indicating] is our school building.

Mr. KITCHIN. All of those people in that long picture are workers in the mill?

Mr. DAVIS. Yes, sir; all except a minister who was photographed there, and I will defy the gentlemen here to pick him out.

I have any number of these photographs with me, but I brought so many I was really ashamed to bring them up here from the hotel.

Senator ROBINSON. Do you know what might be called the school population of your village is?

Mr. DAVIS. Yes, sir. The school population of the village is 162 out of a population of 1,200, and I have 27 going to school who are of working age, according to our State law.

While speaking about education: You see the school building there [indicating]. It is just as nice a school building as there is in the city of Newberry. Just as well equipped in every way, and the teachers have to pass an examination for certificate, just as they do if they taught anywhere else.

I have four cases here in my village that I would like to call your attention to in emphasizing education. All these cases can be actually verified. I have a lady and gentlemen there by the name of Hubbard—Mr. and Mrs. W. E. Hubbard. They are two of the most ignorant people you would want to see. I do not suppose they hardly know their letters. They are extremely ignorant, and were raised in the country and had absolutely no educational advantages whatever, and to look at those two people, the very expression of their face shows they are ignorant and unlettered. They have one child, a daughter, and to look at them you would select them as the last people on earth to appreciate an education; and yet their daughter is a graduate of Columbia Female College, and is now teaching school in the city of Columbia, S. C.

Another case is that of Mr. J. R. Thornton and his wife, who have been with the Newberry Cotton Mill for twenty-odd years. Mr. Thornton's education is very limited and his wife has absolutely none. They have three children, two boys and one girl. The second boy is graduating this year in our high school, and their only daughter, a very fine young lady, graduated at Newberry College in a literary course and also in music, and she is now teaching school in the city of Columbia, both in the graded school and music, making $90 a month there.

Now, two other cases: I have a lady there who married years ago, and her husband left her. I am not going to give her name, because I do not think it is expedient to do it. She has a boy and a girl. She put the boy in the mill at a very young age, and the girl when she was old enough to work. The boy is remarkably smart; he is a marvel. I have three boys of my own, and one I think will do very well, but he is not a circumstance to this boy. This boy won every medal in the high school and the Newberry College, and he is now going to be an Episcopal minister; that is, he will finish college this year.

Another case: An old lady who is a cripple and who has a house full of children, and she sent them all to school, one at a time, and they went through the graded school, and she had one especially bright boy, a good talker. This boy will graduate this year in college, and he is going to be a Presbyterian minister.

It looks like we are making preachers out of all of them, but Presbyterians and Episcopalians do not predominate there.

A great deal has been said to you in opposition to the adoption of this bill, from the standpoint of the manufacturer. What I say to you is going to be based more on the standpoint of the people who are going to be directly affected by the bill, because coming up from the ranks myself, and being familiar with these conditions and intensely interested in the welfare of the people who work in the cotton mills of the south, I am here before you this afternoon championing the cause of the people who will be directly affected by this bill.

We say a great deal has been written about the oppression of the child in the southern mills. Why, do you not know that the southern father and mother love their children as well as any other father and mother? Do you think that the southern blood would allow that oppression anywhere, and do you think that the southern management would want to do it, if they could? Not a bit of it. Of course, you will find this, gentlemen, in your investigation—if you do investigate it, and I hope you will—where a family has seven to eight boys and girls under 16 years old, a good sized family, you are going to find some bad boys in there. Yes, you will. And, as a representative of the management, I want to say I do not object to a bad boy; it simply shows strong Americanism in him; it simply shows there is manhood behind him; that is all. I do not object to that.

Here is one feature about this bill that I want to call your particular attention to, and that is the earning power of the father of a family. I do not think that has been brought out. But, you take a family that has been raised in the country—take this family I

referred to awhile ago. The old gentleman is 50 years old; he has been on the farm all of his life, and knows nothing else but to do hard laborious work. When he comes into the mill you can not put him to operating machinery like you could a skilled operator. He can not learn it; he is too old and clumsy, and he he can not begin to become efficient. You have to put him at some simpler position that does not pay well.

If this law should pass and we would take those two children out of the mill that I referred to a while ago, it would leave that old gentleman there with $1 a day to support a family of five—a physical impossibility.

I referred a moment ago to my own sons. I am the father of four children. I have a son 22 years old, a graduate of Charlestown and a graduate of the Mechanics Institute at Rochester, N. Y., and he is to-day working in my mill, and he went in there every vacation from the time he was 12 years old. My other boys have done likewise. It is work that trains a boy how to work. I would not want my son to wait until he is 16 years old before he strikes a lick of work, and I do not believe many fathers do. I see boys working around in this building under 16 years old. Fathers right here in the city of Washington do not want to do it. And why should they? If I want my sons to become citizens and become business men, I will not allow them to grow in idleness until they reach that age when they will not want to work.

There are two kinds of education—a literary education and an education of training. That is an education of doing things, and they both have got to go along together somewhat. I have known young men, graduates of Newberry College there in my city, who came over there and started in the mill after they were 18 or 19 or 20 years old. How long did they last? Sometimes a month; they did not last over three months at the outside—90 days was just about enough to see them gone. Why? Because they never started early enough to work; they did not want to work; they did not want to get on their overalls and do the hard work that was necessary to make a success in life, and I will tell you when you have a boy who wants to start at the top and come down he will never amount to anything. These children that we are training we know them; we know what they want and what they ought to have.

We have in our State a law limiting the age at present to 12 years, and there is a bill introduced now in the legislature to limit to 14, and in all probability it will pass. I think it will. But at the same time these people will probably feel it a hardship even if the law passes at 14 years old. But we are developing. I do not want to convey this idea to you, that we will never reach the time when a 14-year old law, and perhaps 15 or even 16 years, might not be acceptable. I do not know what the future holds for us, but when I think back 20, 25, or 30 years ago and recall the condition of the mills then, when I think of having to work there for almost nothing when I was a boy, and when I think of the marvelous improvements that have been made in the machinery and in the environment of the people who do this labor, and that the mills are throwing their whole weight in the development of strong citizenship, composed of the people who are employed in the southern cotton mills,

when I see that and realize the mighty strides that have been made in the development not only in the machinery which does the work, but in the environments of the people and in providing ways and means by which the people can enjoy themselves socially and religiously—we have three churches in our village and three ministers live in the village, indicating we take good care of the religious side of life, which is by no means the least side—and we have provided every convenience possible in our mill. I will say that, gentlemen, and I will be through.

I want to speak about the sanitary conditions inside the mill. We provide drinking fountains; we provide lavatories; we provide disinfectants there and keep it sanitary, and we do not provide the cheapest disinfectants we can find. I will venture to say that we are purchasing a disinfectant with a coefficiency of 20, which means 20 times stronger than carbolic acid, and I will venture to say that there is not a single school in the city of Washington to-day that is buying a disinfectant as strong as that.

We employ every conceivable method and means by which to look after the health conditions of our people. We would be foolish not to do it. We are proud of them, and at the same time we feel it will be working a serious hardship on the part of these poor people—unfortunately poor people—to not allow them to make a nice living.

Senator POINDEXTER. Where do you draw your employees from chiefly?

Mr. DAVIS. From the country.

Senator POINDEXTER. Tenant farmers. A few years ago a considerable controversy arose here in the Senate over the question of what sort of food the mill employees had. What have you to say about that—the kind of living that they get?

Mr. DAVIS. Well, I should think that their living is different, as it differs in other localities of the country. If I go up here to New York, they have various dishes there; I do not know what they are, nor how to order things from the bill of fare when they bring it to me, and I expect I am not by myself in that, because things change, and they have all those French names for common dishes; but the ordinary person has good, wholesome food.

I am glad you mentioned that. Conditions are not alike all over the United States, and I want to prove that to you right here. Here [exhibiting photograph] is a handsome 20-room boarding house that I would like you gentlemen to look at. That house is equipped with electric lights, sewerage connections, bathrooms, and cost $6,000. That house was built right there, near our mill. How much rent do you suppose we get for it? We furnish the water, and we get $9 a month.

Senator ROBINSON. For that whole building?

Mr. DAVIS. Yes, sir.

Senator THOMPSON. The company furnishes it, does it?

Mr. DAVIS. Yes, sir; the object of that is manifest. Of course, $9 a month, with water furnished, does not pay the taxes and insurance on that building; neither does it pay the taxes and insurance on our entire village, because we rent one of those homes for $2 a month and the other at $3. The object of that is, of course, to provide cheap living for our people.

The man and the woman who rent this boarding house board those people for $10 a month, and they furnish remarkably wholesome food. There is where we are different; certainly different from New York. You can hardly get a decent one day's stay in New York for much less than that.

Senator THOMPSON. Mr. Davis, you have testified principally to the practical side of this transaction?

Mr. DAVIS. Yes, sir.

Senator THOMPSON. I want to ask now if from your experience you could not say that you could get to an 8-hour basis for those children under 16 years of age?

Mr. DAVIS. Gentlemen, I have been thinking of that question more than any other question since I reached this city. Realizing that I was the practical end of this proposition, I knew that question was coming, and, frankly, I would not say that it could be done, but I would not say that it could not be done. My impression, from the thought that I have placed upon it up to this moment, is that it would be exceedingly difficult.

There are many causes that enter into that. I understand that some mills are doing it in their States. Well, that may be, but at the same time, we are doing lots of things that they are not doing, too, and what is done at one place may or may not be practicable at another. There are many little details and technical things that come into this proposition that it would be hard for me to know how to state, but I would not like to go on record as saying that it could not be done.

Senator THOMPSON. Your legislature has changed the law locally from time to time, has it not?

Mr. DAVIS. Yes, sir; it has.

Senator THOMPSON. And you have met those conditions?

Mr. DAVIS. Yes; we have.

Senator THOMPSON. Do you not think it would be possible to meet the eight-hour proposition?

Mr. DAVIS. Yes, sir; but here is a condition that comes up all at once. The other change that has come about has been gradual; we have met it from 10 or 11—I do not know which it was, whether it was 10 or 11—but we have certainly come up from 11 until we now have 12, and I believe we will have the 14-year-old law, but we will get to it gradually.

The mills of South Carolina have been asking our legislature for several years to pass the compulsory education law up to 14 years of age. The objection, or one of the objections, I would have to this law, from the standpoint of the management—even at the 14-year-old limit—would be that it would turn these boys on the streets and these girls, and it is a hard matter, if the mother and father are at work, unless there is some way to make them go to school. They are not all going to school, only 12. While we have 27 there only 12 are going to school. Some people appreciate the advantages of going to school, and some have not the same appreciation of it.

That is a fair example of what I referred to a while ago. Again, we do not want those children thrown upon the streets. We would rather, in South Carolina, say "you must go to school," and put all of them into school and keep them off the streets. We would rather

they would do that than to tell them "you can not work"—a negative law that says, "you can not work."

Senator THOMPSON. Have you a local law prescribing any period of time?

Mr. DAVIS. It is 12 years of age.

Mr. THOMPSON. You can not employ anyone under 12 years?

Mr. DAVIS. We can not employ them under 12 years.

The CHAIRMAN. Are there any further questions? If not, what is the pleasure of the committee?

Senator CLAPP. I move that the committee do now adjourn until to-morrow morning at 10 o'clock.

(The motion was agreed to, and accordingly the committee adjourned until to-morrow, Wednesday, February 16, 1916, at 10 o'clock a. m.)

INTERSTATE COMMERCE IN PRODUCTS OF CHILD LABOR.

WEDNESDAY, FEBRUARY 16, 1916.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The committee met at 10 o'clock a. m., pursuant to adjournment.

Present: Senators Newlands (chairman), Pomerene, Robinson, Brandegee, Clapp, La Follette, and Poindexter.

The CHAIRMAN. Gov. Kitchin, who is the next gentleman that you desire to be heard?

Gov. KITCHIN. I will ask the committee to hear Mr. Patterson.

STATEMENT OF SAMUEL F. PATTERSON, TREASURER OF THE ROANOKE MILLS, ROANOKE RAPIDS, N. C.; ALSO ROSEMARY MANUFACTURING CO., OF ROANOKE RAPIDS, N. C.

Mr. PATTERSON. Mr. Chairman, the first thing I want to say is that I am chairman of the executive committee of the southern cotton mills, and I am authorized by that committee and the friends of the southern cotton mills' employees and the millmen of the South to extend to this committee an invitation to come South and visit the cotton mills. You are at liberty to designate what mills you would like to visit or go without any designation whatever as guests of this committee. In other words, I mean to say that your entire expenses will be paid from the time you leave Washington until the time you return.

The object of this invitation is that we want this committee, as many as will come, to see the true conditions of things in the South for yourselves so that you may act upon this matter intelligently. Of course, we take it that you gentlemen are seeking the truth, and we think the best way you can ascertain it is to come and see for yourself.

Senator CLAPP. That reminds me that I want to ask you two or three questions. These will not apply to the legal argument because that goes to the merits of this legislation as a whole. You people do not ask to have the cotton mills of the South excepted from this legislation, do you?

Mr. PATTERSON. We are not asking to have them excepted. We have not asked it as yet.

Senator CLAPP. Do you think the cotton-mill condition in the South, where the mills are now—and I am inclined to think that the

work is conducted as fairly as it possibly can be—reflects the industrial situation of this country in reference to what we call child labor?

Mr. PATTERSON. I do not think it properly reflects the industrial conditions in this country with respect to child labor, because I think we are very much better than other districts and other sections.

Senator CLAPP. I take it that that is true. Now, do you consider that the relative importance of the cotton-mill industry of the South to the industrial situation of this country, with reference to what we call child labor, requires that it should dominate in our policy in dealing with child labor? Do I make myself clear?

Mr. PATTERSON. The idea I had in mind was this, that we have been accused—that is our State—with being one of the so-called outlaws, States that have not recognized what is called a modern child-labor law.

Senator CLAPP. I had not heard of that accusation.

Mr. PATTERSON. There have been four States mentioned as being beyond the pale, so to speak—North Carolina, South Carolina, New Mexico, and Wyoming—as if we were behind the procession, so to speak, in the way of passing legislation in regard to child-labor laws. If that is true, then we earnestly solicit either the whole or a subcommittee to come down and see whether these so-called dilatory States are as bad as they are painted.

Senator CLAPP. That would go more to relieving those States of a charge that is invidious to them than to our action on child-labor legislation.

Mr. PATTERSON. Well, if you will pardon my saying so, I do not think this bill touches the heart of the real child-labor proposition. In the first place, I suppose I have not the right to ask you a question?

Senator CLAPP. Certainly you have.

Mr. PATTERSON. Are you familiar with the southern cotton-mill conditions?

Senator CLAPP. I am not.

Mr. PATTERSON. Have you ever been there?

Senator CLAPP. Only in a most incidental way. I have never been there and studied those mills, but this occurred to me yesterday. We sat all day yesterday and heard about the southern cotton mills, and it was interesting information; but unless the southern cotton mills are to be excepted, or unless the relation of the southern cotton-mill industry to the industrial situation in this country is such that it should dominate in our policy, I confess I could not see yesterday why we should take so much evidence in regard to the southern cotton mills.

Mr. PATTERSON. Senator Clapp, I want to call your attention to the fact, with all due respect to you, that the reason we are talking about the southern cotton mills is because we have no coal mines, practically. It is not a question of child labor in the coal mines in our State, and it is not a question of child labor in the canning factories in our State, because we have no factories, but we have industries in which child labor is employed. That is not touched at all by this bill any more than the sweatshops in New York are touched by this bill.

Senator CLAPP. It occurred to me yesterday, I am free to say, that a great deal of this talk about not giving youth an opportunity to be

industrious could have no reference whatever to the terms of this bill. I quite agree with that.

Mr. PATTERSON. Now, I will tell you: It does not make any difference what is said to the contrary, we have invited you now down there to see for yourselves. The fact remains the same, no matter how many people dispute it, that there are a certain number of children in the South who, through no fault of their own—certainly no fault of the cotton manufacturers—must work for a livelihood, for that is the only way they have of getting it. There is a law against going without clothes, and there is a natural law against going without food.

Now, then, they must be fed. It has been sneered at and laughed at when the word "widow" is used, but the fact is that we have nearly one-third of our entire population at our place the families of widows. I took a census some time ago and found that if we had two more widow families in our village, one-third of our houses would be occupied by the families of widows. Why? It is the most natural thing in the world that those poor renters in the South, when the breadwinner dies, are up against a condition, not a theory, and the condition is this, that some one must provide the necessary clothes and food that those people need every day, and the cotton mill is the best place for them. It has been proven so. The reason I say it has been proven so is because there is no law in the State which says, "Thou shalt work in a cotton mill." They are at liberty to exercise their rights as human being and citizens of the State, the same as anyone else. If there were some other field open to them that was just as attractive and just as remunerative as a cotton mill, they would not go into the cotton mills. They would not live on the farms, even if the cotton mills were as bad as they have been painted. So they come in there. Why? Because the girls can make good wages in the cotton mills, whereas they can not make good wages on the farms.

It does not take any argument to prove that. Farm work is not suited for girls, whereas mill work is.

Now, to illustrate that, some of our witnesses were criticized for saying, for instance, that they did not think this work, this spinning millwork, would injure a child of, say, 10 years, 11 years, or 12 years—I mean injure the child physically. Now, he has a perfect right to say that. He not only had the right to say it, but he told the truth, because the work is of such a nature that it can not injure the child physically. Of course, there is a point at which you must stop, just as I judge the friends of the bill would not continue to say that you must not work below 14 or 15 or 16 and continue the age up to 29 or 70. But the nature of the work in the cotton mill is of such character that there is nothing about it that can hurt the child physically, and when you speak of the climatic condition in these mills, I want to say that the climatic condition in the average Southern cotton mill—I do not mean all of them, I mean the extremely modern mills, I should say the atmosphere—is better than it is in nine-tenths of the best residences in the State, because not only is the temperature automatically controlled, but also the humidity. The children are not the poor, downtrodden, half-starved things that they have been pictured to you.

Senator CLAPP. You are all the time speaking of a controversy that I do not think the Senators here have ever heard of or given any thought to.

Mr. PATTERSON. Well, it has been published a great deal—if the Senators are reading what is being published.

The CHAIRMAN. Yes; I have read a good deal on that subject.

Senator CLAPP. It still seems to me that either the effort should be made to relieve a kind of industry which you people have pointed out as very favorable or the effort should be made to show that in the Nation-wide equation of child labor there will be more harm done to childhood by the prohibition, such as in this bill, than there will be good done to them. Now, the feeling is quite general that it is bad for children, who are too young, to work indoors. That is the basis of the sentiment, I think, of the child-labor legislation.

Mr. PATTERSON. I do not want you to understand, Senator, for one minute that the Southern mill manufacturers are in favor of child labor as ordinarily conceived.

Senator CLAPP. Then, what do you propose to meet the situation?

Mr. PATTERSON. What I want to tell you is this, that this bill does one of two things, positively and absolutely. It either puts the mills of the South on an eight-hour system or it puts the children on a 16-year age limit. Now, do not let anything else be in your minds than that.

Senator CLAPP. Now, conceding that, does it not still leave the situation——

Mr. KITCHIN. If you will permit me, I will explain one of the reasons why the cotton-mill men are being heard here, and perhaps the only men being heard in opposition to the bill. If you will read the testimony and the arguments before the committee of the House, you will be led to the conclusion that except for the conditions of child labor in certain Southern States, the manufacturing States, that in all human probability this bill would not have been agitated. I think from a full consideration of what has been said about it in the journals and in the other parts of the press, you would be led to the belief that if you were satisfied that there was nothing wrong, nothing injurious in the southern cotton factories, that there would be no necessity for the passage of this bill.

As your attention was called yesterday to the fact, perhaps 25 States have the 16-year law. In the report they show how many States have practically what this bill proposes to establish as the law, or compel the States to establish, and I do not know that it would affect, my recollection is, five States materially, and if I tell you those States do not need the chastisement of the Federal law, probably you would not feel prepared to chastise any of them.

Senator CLAPP. Now, that throws light upon what yesterday—I could not exactly understand why we were hearing so much about the southern cotton mills.

Mr. KITCHIN. I will say, however, that the view that you had in the intimation of exception in the southern cotton mills, as I recall, prevailed in one State. I think that probably Arkansas originally—I do not know how the law is now—had a pretty good child-labor bill, but excepted factories, cotton factories, just as many States have excepted canneries. They recognized that the canning business was a

rush business in certain seasons of the year, and several States except canneries from their general labor laws.

Senator CLAPP. I have seen a great deal of child labor legislation in a good many years, but I have never thought of the southern cotton mills particularly. It was the industrial condition in the East largely, and throughout the country generally, but your viewpoint, that it is the suprosed condition in the South that is back of the forces behind the bill makes very plain and very reasonable this discussion of the southern cotton mills situation. I am glad you explained it.

Mr. KITCHIN. As appears in these reports, it is known that it will have very little, if any, effect upon the factory conditions in the East, because they will tell you that they have practically what this bill aims at already. It was repeatedly stated, for instance, that it is practically the Massachusetts law; but the working conditions in the Eastern States, Boston, New York, and other places, are not affected directly, and if affected indirectly, it is only in a very slight degree, because the worst conditions are in the sweatshops.

Senator CLAPP. I am very glad to have your explanations, Judge, because I confess that yesterday it looked to me as though we were dealing with a subject here that it was not necessary to deal with.

Mr. PATTERSON. There is one matter that I do not think is generally understood, but it is a fact nevertheless, according to the Labor Commissioner's figures. There is only 1 child out of every 16 who is working at gainful occupations in North Carolina in the cotton mills. Another thing that I think we will all recognize is the fact that it is an attack that has been concentrated upon the cotton mills. I think I am perfectly safe in saying that of all the articles you have read, that have been published recently, 90 per cent of them have to do deal exclusively with cotton mills, and they attack the southern cotton mills and their methods.

Now, it is to do away with that idea, which is pure fallacy, that I would like to have this committee come down and see these things. There is but one thing about the bill that does not seem to be understood thoroughly, and that is that it is impossible—not impossible but impracticable—to employ a child of any age, it does not make any difference whether it is 14, 16, or 18, or what age, in the spinning department of a mill eight hours because it is an intermediate process, and that department must run as many hours per day as the other departments run; the consequence is that a southern cotton-mill owner is not going to run the carding department, where only adults are employed, and their weaving department, where only adults are employed, eight hours a day for the sake of employing children between 14 and 16 in the spinning rooms.

Now, in the spinning mills that I have in mind, and of which I am the treasurer, we have but 13 children in the mill under 16 years of age. Three of those are orphans, who will be thrown out of work in case this bill passes.

Senator CLAPP. I did not understand the State that you come from.

Mr. PATTERSON. North Carolina. I have been in the cotton-mill business many years. I worked in a cotton mill during my vacations when I was 12 years of age, and when I was 16 I stopped school and went into the mill. I have been in the mill ever since, and I think I know the conditions that prevail.

These people are not asking for this legislation; they are not asking for eight hours a day. They are simply asking to be left alone to work out their own salvation in the field of endeavor that they have chosen, and it is a very mistaken idea that they work for a small amount of wages. It might be small if their living expenses were as great as they are in some other localities, but they are not. They have excellent houses. They pay a very small house rent. They pay no doctors' bills at all at our place. That is all furnished to them free, and they are not seeking this legislation. They do not want it. They are opposed to it—I mean the very people who are affected by the bill, or who are supposed to be affected by the bill, are opposed to it.

I heard a very distinguished gentleman say some time ago in talking about this matter—a Member of the House—say that he knew what child labor meant. That he had gone to work in a coal mine at 9 years of age, and that his father had gone to work in a coal mine in Wales when he was 6 years of age. I asked him why. I said, "Why did you go to work in a coal mine at the age of 9, and why did your father go to work at the age of 6?" He said, "Because it was absolutely necessary." Now there is the milk in the coconut. It was absolutely necessary for him to go to work in a coal mine when he was 9, and his father when he was 6. Poverty has not gone out of fashion, and it is still absolutely necessary for children of that age to work in different localities throughout this country for a living.

Senator CLAPP. Do you think—and I do not know whether we should get into that discussion here—that we should sit down and tamely admit as a people that our condition is such that the only alternative is for a child of 6 or 9 years of age to go to work in a coal mine?

Mr. PATTERSON. That is a terrible admission, Senator. Neither should we be compelled to sit down and admit that we have thousands of unemployed walking the streets of New York City or Boston. We should not have to admit that. We should not admit that we have poorhouses in every county where people have to be supported.

Senator CLAPP. No; that is another proposition, between admitting an existing condition which we have not been able to remedy and admitting that the only remedy for the condition is that children should go to work in coal mines at 6 or 9 years of age.

Mr. PATTERSON. I beg your pardon; I do not advocate anyone working in a coal mine at 6 years of age. I do not know anything about a coal mine.

Senator CLAPP. But you were using an illustration there. You stated, as I recall, that that was necessary; that it was either that or starvation.

Mr. PATTERSON. I mean this, however, that in saying that children have to work when they are very young is only doing what you said a minute ago—acknowledging a condition that actually exists, not only in our State, but in every State that I know of. But I do say this, that I have never seen anyone who lived in a cotton-factory town begging on the streets, and yet you can see them in Washington and Boston and other cities.

Senator CLAPP. That may well be.

Mr. PATTERSON. We try to take care of our people as well as we know how, but until either the State arranges to take care of those

children or the General Government arranges to take care of them, it seems to me as though we ought to approach this subject with very extreme care.

Now here is a problem; it is an absolute problem, an actual problem. There are orphan asylums in our State, and I believe I am correct when I say that they keep the child until she is 16, and then turn her out. Is that not so, Gov. Kitchen.

Mr. KITCHIN. They have different rules. I think it is about that.

Mr. PATTERSON. Well, the orphan asylums will not take them after they are 16. There are a great number of orphans who work in the cotton mills of North Carolina. Now, it is a problem, what are those children going to do?

There is another thing that we object to about this matter, and that is this: In our State the manufacturers were the first to advocate a compulsory education law for children. Our law now is that children shall attend school between the ages of 8 and 12. I think it would be a very unfortunate condition of affairs for this law to say that those children can not work until they are 16, and still they are not compelled to go to school after 12. I see that Mr. McKelway shakes his head. I insist that this law does either one of the two things; it either puts a 16-year age on children or an eight-hour day for the mills. Either one of the two.

Senator CLAPP. Speaking of that matter, I put into the record yesterday the statement that in Massachusetts from 14 to 16, I think, it is an eight-hour basis. Of course I do not know whether the other labor in these mills is eight hours or not. Senator Lippitt said nine, and he is of course more familiar with the situation. So it must be that they have either taken the children out, if that statement is correct, or they have harmonized the two by hour periods.

Mr. PATTERSON. In trying to get some advice on this subject, we sent a lot of telegrams out. I think you are mistaken, sir, with all due respect to you.

Senator CLAPP. I simply used the House hearings.

Mr. PATTERSON. I think it is a mistake. I do not think that Massachusetts has an ideal labor law. I have gone through 52 mills in Massachusetts in the last three years, and there is no such condition prevailing in our State.

Senator CLAPP. Then you do not challenge the correctness of the House documents, giving eight hours as the limit below 16, do you?

Mr. PATTERSON. In answer to that question I will just read a telegram from the commissioner of labor in Boston, received last night. It is as follows (reading):

BOSTON, MASS., *February 15, 1916.*

DAVID CLARK,
25, Congress Hall Hotel, Washington, D. C.:

Two thousand five hundred and eighty-seven minors under 16 employed in Massachusetts cotton mills. Children obliged to have employment and educational certificates.

EDWIN MULREADY,
Commissioner of Labor.

Senator CLAPP. Just a moment. I want you to state, first, whether you challenge the statement contained in the House Document, that there is an eight-hour limit under 16.

Mr. PATTERSON. I do not challenge that; no, indeed.

Senator CLAPP. I simply wanted to know. I read that document, but never examined the law.

Mr. PATTERSON. I mean to say that I do not challenge the fact that there is such a law on the statute books. Whether it is obeyed or not is a different matter.

Senator CLAPP. I am not discussing that at all.

Mr. PATTERSON. I would like to put this in the record, also.

The matter referred to is as follows:

EFFECT OF STATE LEGISLATION SIMILAR TO THE KEATING-OWEN BILL.

The advocates of this bill claim that it has been a success in Massachusetts and that the mills have had no difficulty in meeting the proposition of employing those between 14 and 16 years of age only eight hours per day while the older employees work longer hours.

We know that since the passage of such a law by Masachusetts there has been practically no increase in the number of spindles in that State.

We ask permission to insert in the record information which we will obtain in the next few days relative to the effect upon the Massachusetts law upon the cotton mills of that State.

Kentucky has a similar law and found that it was impractical to work any one under 16 years of age.

The effect of similar legislation in Pennsylvania is plainly shown by the following letter to Congressman E. Y. Webb from E. J. McGennis, district attorney of Schuylkill County, Pa., and also an open letter sent to the legislators of Pennsylvania by Mr. McGennis.

Mr. PATTERSON. That was the question you had in mind, I judge?

Senator CLAPP. Not in that form.

Mr. PATTERSON. I think we could fill the record with just such letters as that, that the child-labor law in Pennsylvania has been a very great disappointment even to the public who advocated the law, because instead of putting the children on the eight-hour basis, it has thrown them out of work.

Mr. KITCHIN. Right there, it might be well to introduce the report from which you read yesterday, Senator Clapp, that the census in 1910 shows that Massachusetts had 279 children in manufacturing and mechanical operations under 13, and those from 14 to 15, 18,275, which would make about 18,500, and if that telegram is correct there are only 2,500 employed. The law was passed in 1913.

Mr. MCKELWAY. That is all the mechanical operations in Massachusetts.

Mr. KITCHIN. I said mechanical and manufacturing operations.

The CHAIRMAN. I would like to ask a few questions. How many of the States outside of the Southern States are engaged in the production of cotton goods?

Mr. PATTERSON. I can not say exactly, but there are practically none west of Kentucky. The New England States and the Southern States are the manufacturing States of the Union.

The CHAIRMAN. Then, regarding Kentucky as a Southern State, the only States in which that industry is conducted to any considerable extent are the New England States?

Mr. PATTERSON. I did not get that question.

The CHAIRMAN. Outside of the Southern States and Kentucky, regarding Kentucky as a Southern State——

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. The only States that have a considerable part of this industry are the New England States?

Mr. PATTERSON. Yes, sir; that is right.

The CHAIRMAN. Do all of these States have the eight-hour law as applied to this industry?

Mr. PATTERSON. Now, I remember 19, I believe, that have a law which says——

The CHAIRMAN. I am talking about the New England States that are engaged in the cotton-manufacturing industry.

Mr. PATTERSON. Well, I am not familiar with all of them, but I understand that Massachusetts, Arizona, California, Colorado, District of Columbia, Illinois, Indiana, Kansas, Minnesota, Nebraska, Nevada, New York, North Dakota, Ohio, Oklahoma, and Washington for girls and Wisconsin have laws which prohibit children under 16 from working over eight hours in mills and factories. It does not say that it prohibits them.

The CHAIRMAN. Then, you enumerate only one New England State in which that law prevails? In that list there is only one of the New England States?

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. And that is Massachusetts?

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. Do you know how it is in other New England States?

Mr. PATTERSON. I do not.

The CHAIRMAN. Now, in the States which you are representing, North Carolina, Georgia, and South Carolina—and what other State?

Mr. PATTERSON. Well, Mississippi and Virginia.

The CHAIRMAN. In Mississippi they have a cotton industry?

Mr. PATTERSON. Yes, sir; and in Alabama, also.

The CHAIRMAN. Do any of those States have an eight-hour law as applied to children?

Mr. PATTERSON. I think Mississippi has; in fact, I know they have a law, and I think it is an eight-hour law. That is the one I read a minute ago.

The CHAIRMAN. Now, what limit is there in the other Southern States to which you have referred that applies to this industry?

Mr. PATTERSON. Well, I am speaking of this industry, of course. The law in North Carolina says that you can employ a child 12 years of age provided it has attended school a certain length of time during the preceding school term; I do not think that is recognized by the manufacturers at all. I know we do not employ any children under 13. We have only two in our mills under 14.

The CHAIRMAN. Does the law permit you to employ children under 14?

Mr. PATTERSON. Yes, sir; under 14. It permits you to employ a child at 12 if it has gone to school a certain length of time in the preceding school period; but I do not know anyone who is working children of 12 years of age. We have not done it for years.

The CHAIRMAN. I am speaking now of the limit of the law.

Mr. PATTERSON. Otherwise, it is 13.

The CHAIRMAN. In how many of the States is the age 12 years.

Mr. PATTERSON. It is 12 in South Carolina as I understand it; it is practically 13 in North Carolina. In Alabama it is 14 on the first of September next; it is now 13 and the same thing exists, I believe, in South Carolina. It will be 14 there.

The CHAIRMAN. Do you think that limit ought in all cases be applied to children below 14 years of age; do you think a limit below 14 years of age ought to be applied in all cases to children, and are there not, in some of those statutes, provisions permitting employment of children under those ages under certain conditions, and with the visé of certain public authorities.

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. Is that so in most of those States?

Mr. PATTERSON. It is so in several of them; I do not know that it is so in a majority or not. Now the manufacturers of South Carolina have not opposed—that is in the ordinary acceptation of the term—a 14-year age limit. They did oppose it until the State passed a compulsory educational law raising the limit to 14.

The CHAIRMAN. What do you think about the wisdom of arbitrarily limiting it to 14 years?

Mr. PATTERSON. Well, I doubt the wisdom of it.

The CHAIRMAN. Without giving the power to some governmental body, or official, to relax the rule in exceptional conditions.

Mr. PATTERSON. I am perfectly frank to tell you if I had my way about this matter, I would set the limit at 14 years of age with a compulsory education law to 14, but with the proviso that by going before the proper authority a child might get permission to work as young as 13, if his condition in life happens to be such that he would have to work.

The CHAIRMAN. Now, my mind is intent upon some method of amending this bill. You propose in effect that we should either pass no bill at all, leaving the matter entirely to the States as a matter of domestic concern, or if we do pass a law we should except this particular industry and perhaps particular States from its operation, which would be a very difficult thing to do.

Mr. PATTERSON. I realize that.

The CHAIRMAN. Now, my mind is intent upon this; I can see that under certain conditions a limitation as low as 14 years or 13 years or 12 years might impose very serious embarrassment upon certain families and upon certain children.

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. And deprive the children themselves of opportunities which they ought to have and which would perhaps save them from the pernicious effects of idleness.

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. My mind is tending toward some modification of this bill which will admit of discretionary relaxation of this rule under guard that will insure that the relaxation will not prove a means of practically avoiding the purposes of the act. Have your minds ever been directed to that question?

Mr. PATTERSON. I think so.

The CHAIRMAN. Have you shaped any suggestions of amendments to this bill that would cover that? I regard the passage of a child-labor bill of this kind as practically insured. I think the feeling is—I may be mistaken—that this subject will not be left exclusively to the States in the fear that even though the States may pass wise laws upon the subject the laws themselves may not be properly enforced, and so it seems to me that the ingenuity of the gentlemen who think as you do should be applied to the shaping of an amendment to this

bill that will enable the exercise of wise discretion by certain authorities under certain conditions.

Mr. PATTERSON. Senator Newlands, I feel this way about it. Personally I do not think it is a matter——

The CHAIRMAN. Of course I am speaking now entirely apart from the constitutional question.

Mr. PATTERSON. I understand that. I do not think it is a matter for Federal control. We can not equalize the conditions over the States by any amount of legislation in the first place.

The CHAIRMAN. I admit that. Now, as I understand, in your State you say that whilst Massachusetts may have the advantage of an eight-hour law, yet that if you were to accept that you would have then certain disadvantages in competition with Massachusetts; that Massachusetts, for instance, has lower freight rates.

Mr. PATTERSON. Lower freight and lower fuel.

The CHAIRMAN. Lower fuel and other conditions that would give her the advantage and you could not sustain your industry down there if you were handicapped by extreme legislation upon this subject.

Mr. PATTERSON. There is another matter that has not occurred to you, I judge, from what you say. Most of the mills in Massachusetts do not furnish their tenement houses, and, fortunately or unfortunately, the mills in the South, in nearly every instance, do furnish the tenement houses. I want to tell you that a large amount of money has been invested in tenement houses for southern mill employees, and I feel safe in saying that it does not net the mill 3 per cent. So that is the disadvantage. It is another disadvantage.

The CHAIRMAN. I understand; but suppose you were handicapped now by a rule of this kind as applied to your industry. You would then doubtless be obliged to abandon certain expenditures that you make now purely from a humanitarian point of view.

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. Well, would not the people down there get along just as well without your making these humanitarian provisions in the shape of tenement houses, etc., for them?

Mr. PATTERSON. If we thought that they would get along just as well in the small log cabins that they came from on the farm, without the electric lights, without the sewerage, and without proper instruction as to how to cook and what to cook, without trained nurses, without medical assistance, without hospitals (we certainly are not keeping them just for the fun of the thing), we would do away with them if we thought they would get along just as well without them.

The CHAIRMAN. Your contention then is that if you abandon those things which are not general in other States, the condition of the children under this law would be worse than under present conditions?

Mr. PATTERSON. Absolutely.

Senator CLAPP. You spoke of being handicapped as to freight rates. The cotton is raised in close proximity to your mills, is it not?

Mr. PATTERSON. Yes, sir.

Senator CLAPP. Now, as to the market abroad, where would New England have any advantage as to freight rates.

Mr. PATTERSON. In New England—I think I am correct when I state that the freight rate from Fall River to New York is 5 cents a

hundred pounds. I know I am correct in stating that our freight rate to New York is 39 cents a hundred.

Senator CLAPP. But you do not have to get it to New York to send it abroad, do you?

Mr. PATTERSON. We do not send anything abroad, and when I say we send nothing abroad I should say that we have sold a lot recently to some of the charitable societies that are sending stuff abroad for war relief; but ordinarily we do not ship our stuff abroad.

Senator CLAPP. I want to put this of record if it is a fact. Does New England have any advantage in rates where the points to which the product is distributed is as far from the mill in New England as against the southern mills for the same distance?

Mr. PATTERSON. They have a very great advantage.

Senator CLAPP. Now I want to ask the chairman a question. He has assumed a certain proposition here, and I want to know whether, as chairman of this committee dealing with railroad rates, he is going to assume that for all time you can haul cotton from the South to New England, manufacture it, and then ship it out again an equal distance, with the advantage of railroad rates that New England has?

The CHAIRMAN. You mean whether the advantage——

Senator CLAPP. You assumed that in the question, the advantage that New England has over the South.

The CHAIRMAN. I would not assume that that condition would exist for all time.

Mr. PATTERSON. It is largely a matter after all in freight rates, not of distance, but competition.

The CHAIRMAN. But we do know that the density of traffic is such in New England and in the adjoining regions as to enable very much lower freight rates than prevail elsewhere throughout the country.

Senator CLAPP. That would be true as to those points within the natural radius of the distribution in New England; but in competition with the South, points that do not share that condition. That is what I have reference to.

Mr. PATTERSON. I will give you an idea as to that. I heard the other day that two hogsheads of Burley tobacco from New Orleans (not since the war began), but some time ago—were shipped. One was consigned to Liverpool and the other to Danville, Va., and the freight on the tobacco to Liverpool was less than it was to Danville. Now, I know that there are points in the adjoining States—Danville, for instance—where the railroad haul is about three times as long as the haul from our place, and where the water haul is exactly the same—deep-water transportation exactly the same, and where the freight rate is much less than ours. I also know that in Petersburg, Va., which is exactly the same, almost within a mile of the same distance from Norfolk that we are—their freight rate to New York is 23 cents and ours is 39, and we both ship to Norfolk and both there take the Old Dominion Line.

Senator POMERENE. Is it your claim that your freight rates are excessive?

Mr. PATTERSON. I only made the remark that we could not equalize conditions by this bill or with any other kind of legislation.

Senator POMERENE. That does not answer my question. Is it your claim that the freight rates are excessive?

Mr. PATTERSON. In the South?

Senator POMERENE. Yes.

Mr. PATTERSON. As a rule, yes.

Senator POMERENE. Is not your remedy to correct that to bring the matter before the Interstate Commerce Commission or before your local commission and correct it in that way rather than to counterbalance the advantage the other localities may have in freight rates by some legislation on this particular subject?

Mr. PATTERSON. That is absolutely true; but some of the advocates of this bill are contending that it is perfectly right and proper to equalize labor conditions and labor laws all over the country, and, as I say, they might equalize labor laws, but they can not equalize other conditions. They are claiming that the South has an advantage over them; that we are unfair competitors. That has been stated in the record.

Senator POMERENE. Yesterday a good deal of capital was made out of the thought that we should care for the widows, children, etc. Now, I am willing to concede that as a general proposition, but I do not believe that the conditions are such in the South that you have more widows or more orphans than they have in any other section of the country. So that it seems to me an argument of that kind is without very much validity. We ought to be able to get something here that is going to be equal and just and at the same time guard the interests of the minor children.

Mr. PATTERSON. I think your supposition is absolutely correct. I do not think we have any more widows in proportion in the South than they have at other places and probably not so many, because we have a very healthy place down there.

The CHAIRMAN. And yet you stated as a fact that one-third of the families in your village are the families of widows.

Senator CLAPP. That would be quite natural, that they should drift to the town to get work for the children.

Mr. PATTERSON. I tried to explain that that was the most natural result in the world. Just picture for yourselves our community outside of the mill villages. Take the small farmers; most of them are tenants. Now, picture a tenant who has a family, especially of girls, and the breadwinner dies. The father dies. I contend and insist that it is the most natural thing in the world for those people to come into a cotton mill to go to work, because the farming work is unsuited for girls; whereas the mill work seems to be especially designed for them. I simply wanted to illustrate that.

The CHAIRMAN. Then, take the condition of the girls in one of your cotton mills as contrasted with the girls on the farm as you have described. Which is the more favorable condition?

Mr. PATTERSON. There is no comparison. The conditions in the mill are very far superior, so much so that it is ridiculous to compare them, not only as to educational facilities, but with respect to church facilities.

The CHAIRMAN. Do you think so in the matter of health?

Mr. PATTERSON. Yes, sir; positively.

The CHAIRMAN. Do you not think there is any tendency toward race deterioration in those mill towns?

Mr. PATTERSON. To the contrary.

The CHAIRMAN. It is very marked in the mill towns of New England.

Mr. PATTERSON. Again I repeat my invitation to the committee to come down there and see for themselves.

The CHAIRMAN. There is a marked contrast there between the agricultural population and the mill population in size and strength.

Mr. PATTERSON. That might be so in England, but I say the opposite can be proved. It is not the case in our place. I mean to say as a whole not only our place but other places; for instance, the poor farming class in the country—they are good people but they are poor. They do not have the sanitary conditions they have in the towns; they do not have as good houses; they do not have the social facilities or the church facilities, and they do not have the same kind of food or class of food. We have district nurses to go around to teach those people how to cook and what to cook, and they are supplied by the mill.

The CHAIRMAN. Is that true of all the mills in your State?

Mr. PATTERSON. I will say that we do more welfare work in some respects than some others, and they do more in other respects. I have in mind a mill at Kanopolis; that is a large milling town where they do a great many more things in certain directions than we do, but we do pay as much or more attention to the health of the operatives than any place I know of. We have had your own Government officials down there, and we just transformed our place from a place that was fairly good with regard to health to one of the healthiest places I know of.

The CHAIRMAN. What Government officials do you refer to?

Mr. PATTERSON. To Dr. Carter and Dr. Von Ezdorf and others.

The CHAIRMAN. Of the Health Department?

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. Now, you suggested a moment ago that a subcommittee or the entire committee should visit your region, and you extended an invitation to them to come at any time. How long would it take to make such a trip and to get a complete survey?

Mr. PATTERSON. I have seen the railroad officials and they have promised us that they will make you as comfortable as can be done under the circumstances. I would suggest—I am not going to dictate to you but I would suggest that you leave Washington, say, on the Sunday evening boat and go to Norfolk; there you will be met by a compartment car and dining car, and from there you can go where you please. You can take any length of time you please. You can see some of the largest mills in North Carolina and return here on the second day after you leave; that is, you could come back here Tuesday night, but if you go on through to South Carolina, it would probably take you four days, but I feel sure you would enjoy the trip, and I feel sure that every manufacturer would be glad to have you come, and I feel absolutely sure that you will learn more about cotton mills and the cotton conditions in four days than you can learn by reading all the magazines and sentimental articles that have ever been written about this matter during the balance of your lifetime. Just come and look; that is what we want you to do.

The CHAIRMAN. Are there many of those mills in Georgia?

Mr. PATTERSON. There are quite a number in Georgia.

The CHAIRMAN. I would presume it would take a little over a week then to make a complete trip through North Carolina, South Carolina, Georgia, and Alabama.

Mr. PATTERSON. You could not get through in a week if you did the complete work. We have three or four hundred in our State alone, and I just want to call your attention to this. I will not go into these figures, but I think they will be interesting if you will look the matter up in some of the evidence that was offered in the House in regard to this same thing. Look at the percentage of the school attendance in the States that are supposed to have ideal labor laws—that is, Tennessee, Kentucky, and Mississippi—as compared with some of the States that you claim have not ideal laws, and you will find our children are going to school about as well as the others. It does not work, in other words.

Now, we will be glad to have you come down; and I repeat, come down and look and see for yourselves. The cotton-mill condition is not what it is ordinarily thought to be by those who have never seen it.

Senator POMERENE. You were speaking of the sanitary condition or improvements that have been adopted down there, and my own information is that they have been very greatly improved in the last few years.

Mr. PATTERSON. They have been; yes, sir.

Senator POMERENE. About how long ago did you begin those improvements?

Mr. PATTERSON. Well, we began them immediately after we went to this place, this town that I am speaking of now. They had a large water power there, and we went there and developed this water power, and built these mills, and began to improve the sanitary conditions since we went there 18 years ago.

The CHAIRMAN. I suppose, Mr. Patterson, you will admit that a good deal of this improvement in sanitation and this welfare work has been inaugurated under the whip and spur of this national movement for the child-labor laws. Is that not so?

Mr. PATTERSON. You ask me to admit that?

The CHAIRMAN. Yes.

Mr. PATTERSON. I say positively that they had nothing whatever to do with it.

The CHAIRMAN. You think it would have been done anyway?

Mr. PATTERSON. I do not think anything about it. I know it.

The CHAIRMAN. I remember that in an inquiry that we had before the Committee on Education and Labor some years ago, one of the first inquiries that was made—and I was a member of that committee—was with respect to conditions there which seemed very deplorable.

Mr. PATTERSON. I went to work when I was 12 years of age, in the cotton mill. The conditions then were poor, but it is like any other business you might mention. All of your machine shops in New England have gradually improved all along the line.

The CHAIRMAN. Do you not think that all of that has been accomplished, as I stated, under the whip and spur of legislation, either threatened or accomplished?

Mr. PATTERSON. I do not believe it. There has been no effort as far as I know to pass a law in North Carolina compelling manufacturers to furnish nothing but deep wells for their employees. That is

what we do, and we have an expert at Johns Hopkins Hospital to analyze the water; we pay him to do it; with the result that we have had no typhoid fever in that town now for two years. Now, we may not deserve any credit for that, Senator. We realize——

The CHAIRMAN. I think you deserve credit for it.

Mr. PATTERSON. We realize that a person who is well and happy makes a better employee than one who is not. That is the thing in a nutshell.

The CHAIRMAN. Now there is another thing. You are anticipating some change in the economic conditions at the close of the European war, I observe from your testimony?

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. Your fear is that over there they are driven by the necessity of getting back their gold that has largely gone to countries that have been suppyling them with munitions of war and not money for local development, that that would stimulate production and exports to other countries?

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. And you fear that they will not be as humane as we are in this country regarding the employment of child labor. Have you ever thought that our legislation could be directed toward the prevention of the unfair advantage secured by an inhumane system by establishing a humane system?

Mr. PATTERSON. I do not pretend to say that I am capable of advising what sort of legislation should be passed in an extreme condition such as we are going to face now. We all know perfectly well that there have been so many men killed off in Europe that there are going to be a lot of women and a lot of children who are going to work at gainful occupations now who have never been forced to that necessity before. We all know that, and under the old rule of supply and demand there is going to be a great surplus of labor; there are going to be lower wages; and it is my honest opinion—whether I am right or wrong I do not know—that we are going to be flooded with a lot of textiles that have been manufactured under the cheapest labor conditions that have been known for half a century.

Senator POMERENE. Mr. Patterson, I wish you would explain this: With a given condition in Europe we import a given quantity of goods that has a given effect upon our local industries. I have heard this argument before, but I have never seen an explanation of it. Explain to me why or how from five to ten million dead men and from five to ten million crippled men can increase this surplus product that is going to flood the markets here.

Mr. PATTERSON. My idea about it is that there is going to be so many more men—crippled men, if you like to put it that way—and so many women and children, who, on account of their financial condition, in not having to work prior to the war, they will now have to seek employment.

The CHAIRMAN. As a matter of fact, I believe it is a statistical fact that after the Napoleonic wars the wage level of Europe was lower than it had been for 50 years prior to that time.

Senator POMERENE. Was the production greater?

The CHAIRMAN. I do not know about that, but the wage was very low.

Mr. PATTERSON. I do not know that the production would be greater because there have been so many of the manufacturing establishments that have been completely ruined, but as fast as they can rebuild them they are going to seek some sort of employment by which they can make a living. We know a great many of them have been impoverished by reason of the war.

The CHAIRMAN. As I understand it, all this welfare work you are doing in the Southern States, and it seems to me to be very commendable, has been a voluntary matter.

Mr. PATTERSON. Absolutely.

The CHAIRMAN. I was in a factory in Germany some years ago that seemed to me a marvel of cleanliness and sanitation and comfort for the convenience of the employees. I complimented the proprietor, who was showing me around, at the end of our trip upon the humanity that they had shown in all of these arrangements; they far exceeded anything I have seen in this country anywhere, and he looked a little surprised, and his answer was, "We deserve no credit for that. The Government requires it of us."

Mr. PATTERSON. It is a well-known fact that our Government does not require it, but common sense does. We realize that the more contented you can make your people the better class of labor you will get.

The CHAIRMAN. Does any other Senator desire to ask any quetsions?

Senator BRANDEGEE. I would like to ask one or two questions. Do I understand you cotton manufacturers of the South claim that the condition of the children under 16 years of age, whom you employ, is on the whole a great deal better, both in the mills and in the surroundings in the manufacturing communities, than they were on the farms from which they were drawn?

Mr. PATTERSON. Very much better.

Senator BRANDEGEE. Or than they would be if they should lose this employment?

Mr. PATTERSON. Very much better. There is no comparison.

Senator BRANDEGEE. One other question. In those States which have the eight-hour law applied to children under 16, has the effect been to throw the whole mill under the eight-hour law?

Mr. PATTERSON. The effect has been just what a great many of the friends of the measure did not want it to be. It has thrown the children on a 16-year age limit instead of throwing the mills on the eight-hour law.

Senator BRANDEGEE. You mean it has thrown out of employment the children under 16 years of age?

Mr. PATTERSON. Yes, sir.

Senator BRANDEGEE. Has not that benefited them?

Mr. PATTERSON. I fail to see it. If this bill is an educational matter, I fail to understand for the life of me how you can send any more children to school by changing their occupations from one thing to another. The children in our mill towns in the South, as a rule—of course there are some exceptions—those who can afford to go are already attending school. Do not get it in your minds, gentlemen, please, that there are no children in the mill villages over 14 who are going to school. There are literally hundreds of them over 14 going to school, but the children who are compelled to work through some force of circumstances, no matter what it happens to be, are now in

the mills. Now, if this law goes into effect, I can not see how the driving of these children back on the farm would benefit them from an educational standpoint. In the first place, it is going to hurt them. As they are now the younger members of the family can get all school facilities right at the door, and religious advantages right at the door, whereas if you send them back on the farm they will have neither.

Senator BRANDEGEE. Of course, I assume that everyone wants to make the conditions of labor, especially for children, and more especially for girls who are compelled to earn their living, children under 16 years of age, say, as good as it is possible to make them.

Mr. PATTERSON. And I think every southern mill manufacturer feels just that way.

Senator BRANDEGEE. Of course, every member of this committee, and every Member of Congress, as a matter of fact, feels that way. It is unfortunate, of course, that young children have to work at all. It is unfortunate that they can not be supported by their families and given a good education and not be compelled to go to work until they have attained their majority, perhaps. But I am saying that if poor children have got to work at something, what better thing could they be working at than in the proper mill, such as you have described, surrounded by the sanitary arrangements that you have described?

Mr. PATTERSON. I could not conceive of any more congenial occupation for a child. Now, much has been said on this line—in fact, I was asked a question, not in the hearing, but outside, "How is it that you claim on the one hand that you pay good wages, and on the other hand that the work is so very light and is insignificant in character? How can you afford to do that?" Well, the best illustration I can give you is this: If a grown man were to sit down and tried to thread needles all day, he would wear himself out and get into a profuse perspiration and not accomplish anything. We have all tried, I suppose, to thread a needle. Now, there is no manual work about threading a needle; there is nothing about the operation of threading a needle that is going to hurt you physically, still if you take some old bachelor and pay him a cent apiece for threading needles, he will starve to death.

Senator BRANDEGEE. I know I would.

Mr. PATTERSON. On the other hand, take some 12-year old girl and pay her a cent apiece to thread needles and she would get rich.

Now, the work is of a light character and peculiarly fitted for just women and children.

The CHAIRMAN. There are two kinds of education, of course; one of the head and one of the hand.

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. The system that is provided for in this bill apparently stimulates training of the head up to, say, 16 years of age, but makes no provision for training the hands, and yet both are necessary in the ordinary vocations of life. Now, is it not possible to establish in these mills some method of graduated hours arranged according to the age of the children, so they will receive this training of the hands and without too long hours of confinement? Why is it not practicable, for instance, if you only want to employ the mill machinery eight hours a day, to have the children work in two shifts of four hours a day each, so that the children would not be employed

more than four hours a day and have the rest of the day for recreation and mental training?

Mr. PATTERSON. I have given that matter a great deal of mature thought, and I fail to realize how that can be done. In the first place, it means that you are employing twice as many children as you are now employing, and that is rather a remarkable way to do away with child labor, to employ twice as many. In the second place, as it is now, it is not every member of the family—I mean as a rule it is not every member of a family that would work in a cotton mill. Some are at work in the cotton mill while others are going to school, and vice versa. I have in mind a family there where there are two boys in school and two in the mill. The last session the two boys who are now at the mill were at school and the other boys were at the mill; and besides that, if a boy is sufficiently interested in getting an education and he wants to go to night school, there are free night schools furnished him.

The CHAIRMAN. What I am trying to ascertain is this: I think it is very important that we should develop the training of the hands as the training of the head, and I believe that youth is the time to do it.

Mr. PATTERSON. Yes, sir; I think so, too.

The CHAIRMAN. That is to do both. I would regard a system of head training that would keep a child in school eight hours as a bad system, not affording sufficient time for relaxation and recreation, and by the same process of reasoning I should regard eight hours for hand training, or industrial training, as a bad system because it does not give sufficient time for relaxation and recreation. The monotony of the employment would be injurious to the proper development of the child.

Now, why is it not possible with reference to both to secure development in youth on these lines without overtaxing the child? It does seem to me that eight hours, either for head work or hand work, for an immature child is too great a burden.

Mr. PATTERSON. Senator, I worked when I was 12 years of age 69 hours a week. I worked 12 hours every day except on Saturdays. I never realized that it hurt me.

The CHAIRMAN. You look like a man with an exceptional constitution.

Mr. PATTERSON. It is not the kind of work that wears one out. There is no manual labor about it.

The CHAIRMAN. It is not the manual labor that your attention is directed to. There is a strain, and it seems to me that some method could be devised by which children could be trained to make something toward the support of themselves and perhaps the support of their parents, widowed, or otherwise in case of exigency, without such long hours and without the system being uneconomical so far as the factories themselves are concerned.

Mr. PATTERSON. There are two points that enter into this matter, following what you have just said a moment ago—and I am endeavoring to answer your question with regard to it. If the children were employed for half the time it would necessitate of course a great many more tenement houses. It would necessitate twice the number of houses that are necessary to house the children of that age, of course. That is the smallest end of it. In addition to that it would

mean that a child would come to the mill and work four hours and then go back and go to school. Was that your idea? Did I get it?

The CHAIRMAN. Either that or to engage in recreation.

Mr. PATTERSON. Or do nothing?

The CHAIRMAN. I mean some recreation.

Mr. PATTERSON. There is no question about our being able to work a child for four hours and let him out to do nothing the rest of the day. That could be very easily accomplished, but you can not keep families under those conditions, because the families could not live on that sort of work. The children are paid for their services per hour, and right on that line I want to tell you that out of 546 people in our mill, we had only 41, I think it was, who were getting less than $1 a day. We have boys down there 17 years of age getting $1.75 a day.

The CHAIRMAN. But I think it would be a great deal better for a child to get say 50 cents for a half a day than a dollar for a day. I can see, of course, that it would require more operatives.

Mr. PATTERSON. If the number of employees were unlimited you could, by building enough houses, accommodate your help. Work a boy half a day and get some other boy to take his place.

The CHAIRMAN. At all events, I think a bill like this which absolutely cuts off the children under 14 years from the opportunity for getting training for the hands, which would fit him for the battle of life, is an inhumane law— I mean to say it would prove inhumane in many instances.

Mr. PATTERSON. We would like to get this committee, as many as will come down, to see how much inhumanity is being practiced in the southern cotton mills, and whether they look that way.

The CHAIRMAN. I think children ought to have a chance between 12 and 16 years of age of training themselves in the industries that they are to pursue as a life vocation.

Mr. PATTERSON. I agree with you exactly on that point, but the question now is who is going to support the families while they are doing it—I mean in remote instances, it is not every instance. I told you a minute ago that out of the number of operatives we have we only have 13 under 16 years of age.

Senator POMERENE. What is that? Thirteen under 16?

Mr. PATTERSON. Yes, sir.

Senator POMERENE. Then it is not going to be a serious trouble with you?

Mr. PATTERSON. It is not going to be a serious trouble in this way: You must not understand that it means just getting rid of 13 hands; not at all. I have one instance in mind of a young girl who is making about $1.37½ a day; she is 15 years old. Her father is a sweeper; he is 72 years of age. All he does is to sweep the floor; and her mother is a confirmed invalid. Now, this girl, if she is turned out of employment, it does not mean that that old gentleman would support that family; it means that the whole family will have to move out of the village, and go to work for some one else.

Senator POMERENE. It is not turning her out; it is simply reducing her time to eight hours a day.

Mr. PATTERSON. That is just what can not be done in our mill, because we are not going on the eight-hour system until we are compelled to do so.

Senator POINDEXTER. Why can you not go on the 16-hour system and have two shifts?

Mr. PATTERSON. That would not help us unless we put our other departments on the 16-hour system, because they are all figured out mathematically, one to keep up with the other—so much product per hour all the way through—and according to the terms of this bill you could not do that anyway, because you are not allowed to work after 7 o'clock at night or before 7 o'clock in the morning.

Senator POMERENE. You work 10 hours, do you?

Mr. PATTERSON. We work 10 hours; yes, sir.

Senator POMERENE. I wish you would explain to me why it is an insurmountable obstacle to say that here you put 13 children under 16 years of age on an eight-hour schedule and have some one else to take their places for the other two hours of the day?

Mr. PATTERSON. It is not an absolutely insurmountable obstacle. I do not mean to infer that for a minute. It can be done, but the manufacturers are not going to do it for the reason that they are going to hire people over 16 years of age and work them the regular working hours. If you are working by piecework, you will involve a lot of difficulties when you have a hand working in the middle of the day to take her work away or have her leave it.

Senator POMERENE. Are you working on the piecework?

Mr. PATTERSON. Almost entirely. Where we do not work the piecework, we work so much per hour.

The CHAIRMAN. Are there any further questions to be asked Mr. Patterson?

Senator POMERENE. May I ask just one more question? Unfortunately I was not able to be here during the first portion of your remarks on the subject, but have you any data in your States showing the number of children who are employed in mills, say, between 12 and 14 years of age and between 14 and 16 years of age?

Mr. PATTERSON. No, sir; I admit I have not that data with me.

Senator POMERENE. Perhaps some one from your delegation would have it and furnish it to us. Have you some Labor Department statistics?

Mr. PATTERSON. I think I can get that for you.

Senator POMERENE. If you can, I think it would be of great interest to the committee.

Mr. PATTERSON. I just remarked a minute ago that out of the children in the State who are working at gainful occupations, there is only one boy under 16 working in the cotton mill.

The CHAIRMAN. I suggest that you furnish such statistics as you are able to furnish.

Mr. PATTERSON. I will be very glad to furnish them. Mr. Chairman, I would like to have the paper which I hand the reporter go into the record.

The CHAIRMAN. Without objection it will be inserted.

(The paper referred to is as follows:)

EMPLOYMENT OF CHILDREN IN ENGLAND.

The Cotton Factory Times, of England, in a recent editorial, says that children of 13 have been employed regularly in the cotton manufacturing industry of England.

The following editorial in that paper is very interesting, as it gives an idea of textile labor conditions in England to-day:

"The proposal to allow full-time work at 13 years of age has brought forth considerable opposition from people who do not understand the subject. Some have spoken

as if the change would deprive every child in Lancashire of a year's education, whilst others seem to imagine that the whole of the future physical well-being of the British Nation depends upon whether the full-time age is to be 13 or 14. These critics do not seem to be aware that the vast majority of children do already commence to work full time when they are 13, both in cotton mills and other places. It can be shown that the percentage of children who remain at school after attaining that age is only very small indeed. The change that has been suggested would, as a matter of fact, make very little difference to the present situation."

Mr. PATTERSON. I also desire to read the following for the record:

OFFICE OF THE DISTRICT ATTORNEY,
SCHUYLKILL COUNTY,
Pottsville, Pa., January 27, 1916.

DEAR SIR: I address you as one who, I perceive, is working to have Congress pass a just child-labor bill. As one who has given the subject deep study for many years, and as one who has lived his whole life among the class of people who are directly affected by such legislation, let me state that the child-idleness legislation adopted in Pennsylvania has caused awful distress among the following classes of large families among the poor:

1. Fathers incapacitated for labor by sickness or disease.
2. Fathers incapacitaed for labor by accident outside of his regular employment.
3. Fathers unable, because of indistrial conditions, to obtain employment.
4. Fathers in prison.
5. Mothers and children deserted by faithless fathers.
6. Families large and fathers' wages meager.

And so on.

Under our legislation no help whatever is provided for families in any of the foregojng classes. The distress among them is terrible. I could relate instances indefinitely. The law has taken from these families the right of self-preservation—the right of healthy children to labor when the exigencies of the home demand them to labor—and has given them nothing instead. Candidly, isn't it more in keeping with Christian doctrine to let children labor (under proper conditions) than to send whole families to pauper institutions? I began to labor about the mines when I was 10 years of age, and never afterwards ceased to be a wage earner, because my parents needed my help. I am proud of what I did. Why not then leave the same privilege open to the children of the future?

I would respectfully suggest an amendment to the act which would exempt child labor which is performed in order to prevent a family (1) from starving or (2) in order to keep a poor family intact. Believe me that the men and women who advocate these child-labor laws know nothing of the atual conditions that prevail among the poor industrial classes. You must actually live among them to know—for their voices never reach the upper stratas.

I urge you in the name of the millions of Lincolns yet unborn to continue your noble efforts to obtain such amendment to the Keating bill as will leave a vestige of hope for the poor who must labor.

Sincerely, your well-wisher,

E. J. MAGINNIS.

AN OPEN LETTER TO THE LEGISLATORS OF PENNSYLVANIA.

[By Edward J. Maginnis.]

[Reprinted from the Pottsville (Pa.) Republican, Apr. 1, 1915.]

EVILS OF CHILD-LABOR BILLS.

The chief danger lurking in the majority of the child-labor bills under consideration at Harrisburg arises from the fact that one class of citizens composed principally of cultured men and women of small or no families at all, living in comfort, albeit with good intentions, are attempting to force legislation on the industrial class, composed mostly of humble, stalwart men and women of large families living in contentment, but depending for existence upon their daily wages.

The distinguishing mark of a free government has been that the laws for the people are made by the people. Whenever the opulent and more intellectual element in society succeed in establishing laws that will operate exclusively upon the proletarian class, free government, as Lincoln understood it, ceases and aristocracy rules. Unless we can show that a considerable portion of the people to be affected by this

legislation favors its adoption we should, as true members of a free country, defer action until the wishes of the common people are better ascertained.

The writer at much personal expense of time and labor, and because of a natural sympathy for every soul struggling against adversity, has made careful inquiry among the families of the industrial classes and he has been unable to find a single mother of five or more children depending upon the daily wages of the father for sustenance, who approves of any of the proposed measures.

In short, the rich and childless, the old bachelors and maiden ladies, are striving to impose regulations upon the family of the poor man, which the latter does not want.

If thinking, reasonable men of the influential and patriotic class can be got to realize this truth, a powerful protest will assuredly arise against the enactment of such pernicious legislation. No effective protest is yet being heard simply because the ones who will be hurt are not able to make public protest. And even if those good mothers are thus visited with heavier burdens they will suffer on in silence, and the gay world shall little know their agony. Signs of a happy awakening, however, are evident. Here and there great men are beginning to think and speak upon the subject.

On March 23 Supreme Court Justice John P. Elkin, a man possessing the broad vision and soft heart of a real statesman, declared in a public address: "The question of child labor is now being very generally considered. This is a court problem and desires the best thought of thinking people. But in considering this question let us not forget that work is the common lot of mankind. The best men and the best women of the Nation to-day are those who were taught in the school of adversity and were reared to labor with their hands."

Prof. Nearing, of the University of Pennsylvania, has compiled some statistics which are interesting. He says: "Statistics compiled by colleges of America show that the average size of the family of a college graduate is 1.9 children."

As the average family must include at least four children simply to perpetuate the race it requires small argument to show what would happen to this world if all children were constrained to become college graduates. Within a few centuries the earth would become as barren of human life as the moon. Yet we are told in beautiful language that education is the great moral force of the world.

We have a glimmering recollection that the Good Book somewhere says that man was born to labor. Prof. Nearing further states: "The birth rate in Chestnut Hill and Germantown is two and one-half children to the average family (less than in decadent France); in Kensington it is three children to the average family; and in the second ward of Philadelphia it is seven children to the family."

The lesson is startling; the more mankind is inclined to labor the more he begets respect for and obedience to the prime laws of nature. Is it not time for the brilliant ones among the industrial class to become social uplifters and urge the adoption of civil laws that will insure the perpetuation of the families of the educated and wealthy classes? Or, since the poor must assume the major burden of perpetuating the race, would it not be a just regulation to tax every adult man and woman in elite society, say, $1,000 a year for each legitimate child he or she lacks of a normal family of four, and let the proceeds be distributed by the State among the good fathers and mothers of the industrial class who are rearing large families?

At the hearing in the hall of the house at Harrisburg on Wednesday, March 17, a host of club women from various sections of the State appeared and made pathetic pleas in behalf of the child laborer. They spoke as though they believed that the average child is a sort of nonrefillable bottle, containing so much energy which when depleted leaves the child a physical wreck. And yet they all, without exception, went on record as being opposed to an eight-hour day for servant girls or domestics.

These good, noble women, upon whom rests the solemn obligation of attending to social affairs of select society, might be obliged to do some of their own housework if perchance their child servants were limited to an eight-hour workday. Are we to understand that working girls are to be forced out of the stores and factories and given the alternative of working unlimited hours as domestics? Does not this circumstance again illustrate the misguided agitation back of the child-labor reform?

And, lest the writer be charged with taking a stand against liberal education of the mind for any person who can possibly afford it, be it noted emphatically that he has an abiding faith in the good men and women of our industrial class that they will never deprive a child of the opportunity to acquire such intellectual training as the child needs or desires. Let the State provide every facility for education; provide board as well as tuition at the State college; offer premiums to the children of the poor who seek higher education; and establish free professional schools for the poor; but then leave it to the wise judgment of our good fathers and mothers to determine

whether their children need manual labor as well as education in order to develop their characters.

History, which, by the way, is becoming an obsolete study, teaches that labor and sacrifice in virile youth molded the characters of most of the lovable men and women of fame. "But," the zealous social reformer retorts, "many fathers and mothers exploit their children." True, but why should that fact be a justification for laying harsh restrictions on the parental hand generally? It is a principle of common law that it is better that ninety-nine guilty escape than that one innocent person be punished. Are not our God-loving fathers and mothers of the industrial class deserving of as much consideration as the criminal? Why reverse the principle as to them, and punish the ninety-nine devoted parents in order to catch the one who exploits his or her children? Herod, it is said, put 99,000 innocent children to death in order to prevent the rearing of One who was to come to teach the dignity of labor; but Herod was a rich man without a large family of his own.

The records show, and our police authorities attest, that just in the same degree that we have encumbered our law books with unwise child-labor legislation have we increased the work of our juvenile courts and crowded our reform schools. An authority on such matters wrote recently in one of our large dailies: "The breaking up of the social unit—the family—is responsible for the fact that the city of Philadelphia has an army of 10,000 little ones in homes and institutions." Certainly homes will be broken up when we deny to poor families the God-given right to sustain themselves by labor. Many boys from 12 to 14 years of age are daily brought into our juvenile courts charged with incipient crimes. Invariably it is found that such boys have formed a dislike for school training, but they are willing to work for wages.

Under our present system there is nothing left for the trial judge to do except to send them to reform schools. There they are associated with hundreds of boys all affected with different forms of vice or moral delinquency. The result is, as the writer has often verified, that they return to society a little better educated in books—and crime. How much better for society if these boys could be paroled and put to manual labor under the care their parents.

None of the proposed child-labor bills contains an exception in favor of this large class of boys. They will not go to school, the social reformer ordains that they shall not work, hence they must become criminals, for idleness leads ever to crime. Why not first call a convention of all the probation officers of the State and get their opinion as to what ought to be done with our incorrigible, truant, and delinquent boys?

Finally, let us present the case of the mothers in such clear light that only the hardened of heart can longer advocate measures that would rob them of the last vestige of hope. When the soldier in war shoots down his brother, we decorate him for valor; when the mothers of men sustain the race, we strip them of their natural right to the child's help; we put no trust in their sense of honor. Instead of argument, let us exhibit the living examples of the cruel consideration which the social reformer grants to our Spartan mothers.

Here are a few pages taken from the book of life; examples which have come under the eye of the writer; examples which are multiplied the country over in all our industrial centers. And be it remembered that the proposed measures, by restricting further the right of the child to labor, will immeasurably increase the miseries here depicted.

And first we take the case of Mrs. O'Brien. Mrs. O'Brien was a religious woman; she read her Bible and learned that it is God's eternal decree that man shall increase and multiply. She has six children, and her husband worked in the mines. The whole family ate well, slept well, sympathized with their less fortunate neighbors, and obeyed the law. The earnings of the father barely provided for their current needs. One day Mr. O'Brien was stricken down with an incurable malady. The eldest boys were respectively 11 and 13 years of age. They were willing, anxious, and able to work to make up for the loss of their father's wages. But no; it was economically wrong for boys of their tender age to labor in a free country. Hence the family was divided up; one child was sent here, another there, and poor Mrs. O'Brien died of a broken heart.

And there was Mrs. Bolinski. She had eight children, the eldest a girl of 14 and the next a husky boy of 11. Her husband, in a drunken frenzy, committed an aggravated assault on a neighbor and he got two years. Mrs Bolinski came into court with her brood and bade her husband an affectionate farewell as he was being led to prison. There was much weeping among them, and the older children strove to console the disconsolate mother with assurances that they would go to work and try to fill dad's place. But no: there was no right for them to do heroic things in a great free country erected upon the sacrifices of the hardy pioneers: hence Mrs. Bolinski and her flock

were sent to the county almshouse—where there is no education for children. To date no social uplifter has offered her any help.

And Mrs. Davis, too. She had but four children, just enough to entitle her to a place among the families of the elect. She had an unfaithful spouse, and he deserted her and and her little ones and fled the jurisdiction. She was able to take in washing, and Johnnie, her eldest boy, could do a man's job. Bur Johnnie, so an employer told him, was not old enough to be permitted to soil his manly hands in ugly toil; hence, Mrs. Davis, in addition to taking in washing, had to do a little begging on the side to preserve the family unity. It went hard on the proud little woman to beg.

And there was noble Mrs. Schmidt. Because of hard times her husband, a tradesman, was unable to get employment. There was plenty of work about that her boys could do, but they could not get employment certificates unless their parents took false oaths. Mrs. Schmidt, fortunately for her, came of a hardy race. She did not go to the poorhouse, but instead took in two washings a day with ironing, and thus kept the table provided while her husband searched the country for a job. It might be added as a detail that the awful strain broke her down in body.

But lest the foregoing seem but commonplace recitals of human experience, we will relate the story of Mrs. Haas for the delectation of our pseudo-social reformers. And to avoid all play on the sympathies we will not color any of the details. Last fall her husband became ill and was unable to work. She is the mother of six children, the eldest physically able to work, but prohibited by law. The family income being shut off they were actually starving when a fellow laborer happended in one day. Moved by compassion, the fellow laborer went out and soon returned with three chickens. Within an hour thereafter the chickens were devoured. It was the first substantial food they had eaten in many days. It turned out that the chickens were stolen. As soon as Haas got up from his sick bed he was arrested for receiving stolen goods. He admitted to the court that he and his family had eaten the chickens, knowing them to have been stolen. He was sentenced to serve a year and three months. The family became destitute. The distressed mother was tempted to put her virtue on the block, but she was brave. Kind friends brought the matter to the attention of the court, and after some months her husband was paroled.

Thus hundreds of faithful women are forced by legislation conceived in absolute ignorance of conditions prevailing among the industrial class to sacrifice their bodies, to beg, to retreat to pauper institutions, to sacrifice their lives, to sell their honor, in order to preserve their families.

"Oh," the college professor, the club woman, and the childless philanthropist will exclaim in unison, "the widows' pension and the compensation act will take care of those unfortunate women." The writer challenges anyone to point to a single provision in the statute books of Pennsylvania, or in any of the proposed reform bills, which provides any adequate relief for a mother in any of the circumstances above noted. And yet, if we were humanely inclined, how easy it would be to incorporate a proviso to permit the healthy sons of distressed mothers, say over the age of 12 years, and having a third-grade school education, to work at such manual labor as his home physician would certify that he is able to perform.

Down deep in the hearts of these faithful mothers of large families there is a growing conviction that the world is unconsciously uniting in a giant conspiracy to crush them because of their unbending fidelity to the primary laws of God and nature. In time, slowly it may be, American manhood will awaken to the evils of fanatical legislation, and then we can hope for a return to first principles.

STATEMENT OF W. C. RUFFIN, MAYODEN, N. C., TREASURER OF THE MAYO MILLS AT THAT POINT, TREASURER OF THE WASHINGTON MILLS AT FRIES, VA., THE TWINE MILLS CORPORATION, ROANOKE, VA.

The CHAIRMAN. You may proceed with your statement.

Mr. RUFFIN. Gentlemen, I made a statement before the House committee, and I have very little to add to that. There are, however, some points here that I wish to call attention to.

Senator BRANDEGEE. What House committee was it?

Mr. RUFFIN. The Committee on Labor. That is a matter of record so it is no use repeating it. Here is a copy of a letter written to Mr. A. F. McKissick, president of the Crandall Mills, Greenwood, S. C.,

signed by W. C. Stiles, chief division of zoology, which I will read, It is as follows:

PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE,
Washington, D. C., June 23, 1909.

Mr. A. F. McKISSICK,
President Grandel Mills, Greenwood, S. C.

SIR: Your letter of June 21 in reference to newspaper reports of an address I recently made in Washington has been received. The address was given extemporaneously, and therefore I have no copy of it which I can send you. You ask me to confirm the newspapers' statement. In reply to this request I would say that in that address I was discussing the general subject of hookworm disease among the tenant whites of the South. In the course of my remarks I made statements which I have made in several other addresses and which I expect to repeat a great many times more. I described the insanitary conditions under which the tenant whites of the rural districts were living and the vastly improved, though not perfect, sanitary conditions they enjoy when they come to the cotton mills. I said that I looked upon the cotton mills as the greatest and almost the only real friends of the poor whites of the South, and that I could not concur in the popular condemnation to which the cotton mills are constantly subjected. I took the position that there is another side to the child-labor question, a side not generally understood; that I considered these children infinitely better off in the cotton mills than on the soil-polluted, disease-breeding, one-horse, priviless farms. About 68 per cent of the southern farmhouses I have seen have no privy of any kind, and many of the country schools have no privy. As a result of the soil pollution, diseases are widespread and many of these country children are extremely anemic and show a high death rate. When they enter the cotton mills they naturally take their farm diseases with them and persons unfamiliar with the existing conditions have, upon finding these anemic children in the cotton mills, attributed the anemia to the mill life and especially to breathing the cotton lint. As a matter of fact, however, upon reaching the mills the children exchange an intense degree of soil pollution for a very much lessened amount of the same. Theory demands that as a rule their anemia will decrease with their continued residence at the cotton mill village and that as a result their death rate will decrease. My personal observations are that the demands which theory makes are confirmed by practical experience.

I do not hesitate to repeat to you a statement which I have often made in private conversation and in public, namely, I have a daughter 10 years old; I think as much of that daughter as any other father in this country thinks of his child. If I had to choose between putting that girl to work in the spinning room of the average cotton mill and putting her to live on the average one-horse farm of the South, I should be compelled, in justice to the child's health, to send her to the cotton mill, and I feel assured that by so doing I would give her a better chance to see her 21st birthday. This does not mean that I am an exponent of child labor as an abstract proposition, but rather that I look upon child labor in the South as the less of the two evils, and given the present medieval conditions existing on the one-horse tenant farms, I view child labor as an actual blessing when compared with the child misery which is found more particularly in the sand lands and in the Appalachian region.

You will find a short discussion of this subject in the last Annual Report of the Surgeon General, a copy of which you can probably obtain by applying to Surg. Gen. Wyman, Washington, D. C.

Hoping that the foregoing statement makes my position clear, I have the honor to remain,

Respectfully,

C. W. STILES,
Chief Division of Zoology

Gentlemen, this is the part which I want you to pay particular attention to, because it expresses my feelings very forcibly after having been in the mill business nearly 25 years——

The CHAIRMAN. Is Dr. Stiles a Government official?

Mr. RUFFIN. Yes, sir.

The CHAIRMAN. What position does he hold?

Senator ROBINSON. He is a zoologist.

Mr. RUFFIN. He is Chief of the Division of Zoology, and is regarded most highly.

Senator BRANDEGEE. What department of the Government is zoology in? Do you happen to remember?

Mr. RUFFIN. The Public Health and Marine-Hospital Service.

Mr. KITCHIN. You may recall Dr. Stiles in connection with hookworm disease. He is the greatest authority in the world on that disease.

The CHAIRMAN. What part of the letter did you wish to call attention to?

Mr. RUFFIN (reading):

I do not hesitate to repeat to you a statement which I have often made in private conversation and in public, namely: I have a daughter 10 years old. I think as much of that daughter as any other father in this country thinks of his child; if I had to choose between putting that girl to work in the spinning room of the average cotton mill and putting her to live on the average one-horse farm of the South, I should be compelled in justice to the child's health to send her to the cotton mill, and I feel assured that by so doing I would give her a better chance to see her twenty-first birthday. This does not mean that I am an exponent of child labor as an abstract proposition, but rather that I look upon child labor in the South as the less of the two evils and, given the present medieval conditions existing on the one-horse tenant farms, I view child labor as an actual blessing when compared with the child misery which is found more particularly in the sand lands and in the Appalachian region.

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I do not believe there is anything in the world that I could add or could say that would more properly fit my ideas of the conditions as they exist in the South to-day, and have existed for a long time, than is contained in this letter.

Senator POMERENE. That letter fairly construed is not an argument against improving somewhat the conditions of the mills, but it is a very strong argument in favor of improving your local conditions on the farm?

Mr. RUFFIN. No, sir; I do not so understand it. I think it is a very strong letter showing that our conditions at the mill are not perfect or ideal by a great deal, but they are so much better than the people we employ have had before. We do not claim that our conditions at the mill are ideal. We have never claimed that, but we do claim that this class of people from whom we draw our help are greatly benefited by moving to the mills.

Senator POMERENE. I have no doubt about that proposition, that the condition in these mills has improved very considerably during the last few years. I have no doubt about it.

Mr. RUFFIN. Not only the last few years, Senator, if you gentlemen will bear with me for just a moment. Twenty-five years ago the mills in the South were very, very few. We only had them scattered here and there all over the South. Our milling interests have been built up in the South in the last 25 years, and every mill that was built was an improvement on the other mill, and we are to-day, amongst ourselves, competitors for help. Now, the Mayo mill at Mayoden is so situated that in six hours any family that is dissatisfied with us can get employment at 15 other mills. They can move there in two days. Now, how are you going to mistreat such people? It is to our interest, and it is to our interest not only from a financial standpoint but from a humanitarian standpoint to take care of these people, and, gentlemen, we are doing it: the southern cotton mills are doing it.

Within the last 10 days our superintendent told me that he had three families tending farms to apply for work. They have come in there practically without a thing in the world. He asked one of them "Why have you applied for this work?" He said, "Simply because I have farmed out"—and what he meant was that he did not have any provisions to go on.

Now, in those families, gentlemen, there was only one boy 16 years old—I mean by that he was the oldest child and the only child 16. If this law were in effect now, the father and the boy are the only ones who could be in the mill or who could have gone in the mill. There was one 15 and one 13. Under our present State laws they could go in the mill and work. The point I wish to make is that this law would prohibit the younger ones of 15 and 13 from occupation or doing a thing.

Senator POMERENE. Oh, no; it would not do that.

Mr. RUFFIN. Why not?

Senator POMERENE. It would simply mean this, to state the proposition fairly, that you would have to so change your conditions as to employ these children over 14 years of age and under 16, eight hours a day instead of 10 hours a day.

Mr. RUFFIN. Senator, we do not think—and in fact we are practically positive—that that is not practicable.

Senator POMERENE. Well, it may be a little inconvenient.

Mr. RUFFIN. It is not the inconvenience of it; it is almost impracticable.

Senator BRANDEGEE. What do you think would be the effect of the passage of this bill on children between 14 and 16 employed in the cotton mills?

Mr. RUFFIN. The only way I can answer that candidly is what my position would be.

Senator BRANDEGEE. That is what I would like to have.

Mr. RUFFIN. At the Mayo mills we have from 615 to 630 hands. We have 102 boys and girls under 16. They would get out of the mills.

Senator BRANDEGEE. Do you think that would generally happen in the mills that you know about in your State?

Mr. RUFFIN. I do not think there is the least doubt about it.

Senator BRANDEGEE. How many hours do you run your mills a day?

Mr. RUFFIN. We run 60 hours a week.

Senator BRANDEGEE. And this law, if it should be sustained as to its constitutionality, would allow you to employ children between 14 and 16 how many hours a week—48 hours a week?

Mr. RUFFIN. Forty-eight hours a week; yes, sir.

Senator BRANDEGEE. Well, do you not think the mills would make any attempt to see if they could contrive any way to retain the services of those children on an eight-hour basis if the bill should pass?

Mr. RUFFIN. The only way I could conceive of it is that they would think about it, and that would be all.

Senator BRANDEGEE. Can you explain, for the purposes of the record—not to me, because I think I understand it to a certain extent—why it is not practicable in practice to operate a mill where a portion of the employees are in the spinning room employed 8 hours and where the rest of the hands are employed 60 hours a week?

Mr. RUFFIN. We have in spinning different departments. The final production is dependent upon the production of each and every department; the pickle room, which is operated by adults, the carding, practically all the card room, then he goes to the spinning room. If you do not operate that on full time and get the full production, you can not operate your looms on full time. That is the only answer I can give you.

Senator BRANDEGEE. I wanted you to say just what you wanted to.

Mr. RUFFIN. Then here is an article published in the Public Health and Marine Hospital Service which I wish to read.

Senator POMERENE. Is that a long article?

Mr. RUFFIN. It is about a page and a quarter.

The CHAIRMAN. Let me suggest to you that the Senate convenes at 12 o'clock and there are a very few members of the committee present now. Suppose you defer that until this afternoon, and the committee will now take a recess until 3 o'clock.

(Accordingly the committee took a recess until 3 o'clock p. m.)

AFTER RECESS.

The committee reassembled at the expiration of the recess at 3 o'clock p. m.

STATEMENT OF W. C. RUFFIN—Resumed.

The CHAIRMAN. I want to ask you one question, Mr. Ruffin. You stated that you had something over 100 boys and girls under 16.

Mr. RUFFIN. One hundred and two under 16.

The CHAIRMAN. Out of how many?

Mr. RUFFIN. Six hundred and fifteen to six hundred and thirty.

The CHAIRMAN. What is the average wage of the 102 children?

Mr. RUFFIN. I could not tell you that offhand.

The CHAIRMAN. Can you put that in your statement?

Mr. RUFFIN. I will have to get it from the mill. I am perfectly willing to wire for it.

The CHAIRMAN. Well, you may put it in your statement.

Mr. RUFFIN. I will try to get it.

The CHAIRMAN. Are there any other questions which any member of the committee desires to ask Mr. Ruffin?

Mr. KITCHIN. Mr. Chairman, Mr. Ruffin was proceeding to read from a book when the adjournment for luncheon was taken. I suggest that the committee allow him to read it now.

The CHAIRMAN. Very well.

Mr. RUFFIN. This is from the annual report of the Public Health and Marine Hospital Service for 1908. It is as follows:

HOOKWORM DISEASE.

In the annual report for 1907, page 14, reference is made to an investigation of hookworm disease in conjunction with the Bureau of Labor as it relates to woman and child labor in the United States. The prevalence of this disease, especially in the cotton and knitting mills of the Southern and New England States, was made the subject of careful study both from an economic and public health standpoint. The investigations were conducted by the Chief of the Division of Zoology of the Hygienic Laboratory. The field trip lasted about five months, and involved a visit to about 130 cotton and knitting mills and a number of other establishments in the States of North

Carolina, South Carolina, Georgia, Alabama, and Mississippi, as well as some of the New England States. The data obtained have brought out some very important conclusions which, though not altogether in harmony with the popular ideas on the subject of child labor in the South, must be seriously considered in connection with this subject and which also point conclusively to the fact that child labor in the Southern States involves a consideration of certain medical and public health conditions not found in the Northern States.

The full data obtained are contained in a manuscript report which is practically completed and which will be forwarded to the Department of Commerce and Labor before January 1, 1909. As mentioned in the last annual report this investigation was undertaken at the request of that department.

These studies showed that approximately 12.5 per cent (more exactly 12.67) of the cotton-mill employees were found to come within the suspect class of hookworm disease. The percentage varied in the two sexes and at different ages. For instance, the percentage of hands over 20 years of age who were classified as suspects was 8.4 per cent; between 16 and 20 years of age, 19.2 per cent; and under 16 years of age, 27.2 per cent were placed in the suspect class. Of females 16.1 per cent were suspects, while of males, 15.2 per cent came within this class. Of boys under 16 years of age 29.4 per cent and of girls under 16 years old 18.7 per cent were suspects. Of males 16 to 20 years of age 20.7 per cent and of females 16 to 20 years of age 18.1 per cent were suspects. Of males over 20 years old 5.8 per cent, and of females over 20 years old 13 per cent were suspects.

The foregoing statistics, reported by Dr. Stiles, the Chief of the Division of Zoology, are very significant in their bearing upon the health of these people. It is seen, for instance, that among the females of maternity age from 13 to 18 per cent are in a condition which prevents them from properly nourishing babes. Of the males of possible military age, 5.8 to 20.7 per cent are in a condition which would materially decrease their military efficiency. Among children of school age, generally speaking, 18.7 per cent of the females and 29.4 per cent of the males are suffering from an anemia-producing disease which would materially inhibit their normal capacity for study. The figures (18.7 per cent) for females under 16 years of age are significant also in connection with the retardation of menstrual development among these girls. Taking all of the statistics together, it is seen that approximately 12.5 per cent (more exactly, 12.6 per cent) are affected with a disease which materially inhibits their normal working powers, and hence inhibits the economic development of the community in which they live.

The condition in question has heretofore been quite generally assumed on the part of people who visited the mills to be due to breathing in the lint. That this assumption is not free from very serious error of interpretation is evident from the fact that the anemia in question varies greatly in different mills despite the fact that practically all of these people, so far as they breathe in lint, are subject to breathing in the same kind of lint. For instance, Dr. Stiles states that in certain mills which supply their labor chiefly from clay lands the percentage of infection among the children ran very low—under 10 per cent, or even down to nothing—while in one mill running exclusively on sand-land labor 80 per cent of the children were clearly hookworm cases. Plotting the mills according to the origin of the labor, he has shown that the mills running on clay-land and city-born labor show the lowest percentage of anemia. The presence of mountain labor raises the percentage of anemia, and the presence of sand labor raises the percentage still higher. This fact effectually disposes of the importance which has hitherto been attributed to the lint as a factor in causing this widespread and extreme anemia. It is also important to note that the severest cases of anemia were found among children who had been in the mills only a few weeks.

In looking for an explanation of the origin of this anemia it is necessary to consider certain important factors found in the South. Taking 8 South Atlantic and Gulf States, it is seen that there are 833 negroes to every 1,000 whites in the population. All of these States have 33 per cent, or above, negro population. Both hookworm disease and malaria are found in the negro, but the negro is relatively immune to the pathological effects of both infections and therefore forms a tremendous reservoir for infection.

Dr. Stiles states that as a soil polluter the negro is to the white as 795 to 433; therefore he is nearly twice the spreader of hookworm disease when compared with the white. He is also a greater relative spreader of malaria, because he screens less against mosquitoes. The conclusion is therefore evident that the white race in the South is living under a hygienic handicap, due to the presence of such a large proportion of negro population. The whites in better financial circumstances are able to protect themselves against this handicap, which falls more severely therefore upon the whites

in poorer circumstances, namely, the rural tenant whites. This class of people, which does not exist in the North, is the direct product of competition for generations with negro labor plus the effects of these two great anemia-producing diseases (hookworm disease and malaria), which have been spread among them by the negro. It is almost exclusively from this class of people that the cotton mills recruit their labor, and when they bring from the soil-polluted farms into the mills families of rural tenant whites they naturally bring with these families the diseases already existing in them. The anemia of the cotton mill, it must be concluded, is therefore much more the product of soil pollution on the tenant farms than it is the product of working in the mills, and as a matter of fact these anemic children improve in condition after coming to the mills, for the simple reason that in the mill villages they are brought to live under improved sanitary conditions. The child labor of the mills is found chiefly in the spinning room, and the product of the other rooms in the mills is dependent upon the product of the spinning room. If, now, any sudden change is made in child labor in the South, this will necessarily result in cutting down the labor of the mills, and for many of the families in question the only thing which will remain open to them will be a return to the soil-polluted small farms. Considering the mill from this point of view, it is seen that the southern cotton mill is an important sanitary uplifting influence for these people, and this important point must be borne in mind and must be balanced against any detrimental physical effects which mill life may have upon them.

Since the foregoing conditions do not exist in the North, it is evident that the question of child labor in the South contains elements which are not involved in the same question in the North. The complete report and the statistics quoted above emphasize the importance of hookworm disease from the public health standpoint, and show that it is very prevalent throughout a certain section of our country, where it causes many deaths and a serious amount of invalidism.

The relation of soil pollution to this disease has been clearly demonstrated, and the means necessary for its prevention and cure are well known. The necessity is apparent of undertaking measures for the eradication of hookworm disease, and to this end a campaign of education is essential. Communications have been received requesting the cooperation of the service in the improvement of the public health in this direction. In a letter dated February 11, 1908, the secretary of the State Board of Health of North Carolina requested the detail of an officer to cooperate and assist his board in efforts to eradicate the disease from the State. It was recognized that assistance of this character on the part of the National Government should be given upon request of State health authorities, and that such cooperation would be of mutual advantage to the National and State public-health agencies.

Upon looking into the matter, however, it was found impossible to make the detail requested, as there is no provision for incurring expenses incident to such field investigations and cooperation with State and local health authorities.

The same question has arisen before in field investigations, and the prevention of other diseases which affect the health and prosperity of the country at large, and steps were taken with a view to having Congress provide for investigations and cooperation of this character.

There is no more fertile field in preventive medicine at the present time than the suppression of hookworm disease, and it is of importance to the people of a large area of this country that the Public Health Service should take part in this work. Should the bill introduced in Congress to further protect the public health permit of the carrying on of this work and provide means for the diffusion of information relative to its prevention and suppression, steps would be taken to inaugurate further studies, and particularly a campaign of education in cooperation with State health authorities.

Senator BRANDEGEE. Will you allow me to ask you a question?

Mr. RUFFIN. Yes, sir.

Senator BRANDEGEE. When he states that the product of the mill, or the weaving room, depends upon the output of the spinning department, does it mean that the output of the spinning department is supplied right along at a given rate to the weaving department, and that the weaving department can not proceed unless the spinning department is proceeding simultaneously?

Mr. RUFFIN. Yes, sir.

Senator BRANDEGEE. I am not sufficiently familiar with the mechanical process to know that, and I was simply asking the question.

Mr. RUFFIN. Yes, sir; because all of it is mathematically figured out. One department is absolutely dependent upon the product from the other department clear through the mill.

Senator BRANDEGEE. This sounds like a foolish question, I have no doubt, to a man who is familiar with a cotton mill, but is it not so that the product of the spinning department can in any way be stored up and furnished although the spinning department is not operating at that particular minute? Do both have to be operated at the same time?

Mr. RUFFIN. At the same time. The only way you could do that would be to stop the looms, the weaving.

Senator BRANDEGEE. That only has a bearing on this feature of it, in my opinion—as to why if you put your spinning room on the eight-hour basis you would have to put your weaving room on the same basis. Is that so?

Mr. RUFFIN. Absolutely.

Senator POMERENE. You have given a good deal of attention to the sanitary condition so far as it affects these cotton mills, and either you or some one else this morning made the statement indicating that the cotton mills only employed a comparatively small per cent of the children who were employed—I do not recall the exact figures—but what other factories have you, or mines, in your State which employ the children?

Mr. RUFFIN. We practically have no mines, Senator, but we have a large number of tobacco factories. For instance, the most important town, I believe, near by is Winston-Salem, which is known as a tobacco-manufacturing town. There is one concern there that is employing now 1,200 children. They are all negro children.

Senator POMERENE. What are their ages?

Mr. RUFFIN. They are under 16 years of age.

Senator POMERENE. What is the minimum?

Mr. RUFFIN. Below? I do not know that. I suppose 12 or 13.

Senator POMERENE. Is that your statutory regulation?

Mr. RUFFIN. Thirteen is; yes, sir; and there are 1,200 in one factory there in that town, and there will be 2,000, at least, negro children thrown out of employment.

Senator POMERENE. No; that does not necessarily follow.

Mr. RUFFIN. It will if this law is carried into effect.

Senator POMERENE. How many people are employed in this factory all told?

Mr. RUFFIN. Have you any idea, Mr. Patterson?

Mr. PATTERSON. I do not know just the number of hands, but I know that there is practically no age limit to children working in the tobacco factories by reason of the fact that what they call a tobacco roller employs his own stemmers—that is, children—to take the stems out of the tobacco leaves.

Senator POMERENE. I have just been told that the minimum age is 13.

Mr. RUFFIN. That is as far as the cotton mills are concerned. I do not know the age limit of children in the tobacco factories. We have never had that question up there very seriously with the tobacco factories.

Senator POMERENE. You do not pretend to say, do you, that if these tobacco factories were put upon an eight-hour schedule, such as this provides, that it is going to close them?

Mr. RUFFIN. No, indeed; it would not close them.

Senator POMERENE. Or throw this number out of employment?

Mr. RUFFIN. It would throw a large number of them out of employment, yes, sir, as I understand it.

Senator POMERENE. Simply because the hours have been reduced from 10 to 8?

Mr. RUFFIN. No, sir; on account of their age, as I understand it. I am not familiar with the tobacco business. I do not know anything about manufacturing tobacco.

Senator POMERENE. What other branches of business in your State employ children?

Mr. RUFFIN. Farmers.

Senator POMERENE. I am speaking of factories now.

Mr. RUFFIN. We practically have nothing except cotton and tobacco manufacturing.

Mr. PATTERSON. Just as a matter of explanation, I want to say that my statement was that according to the report of the commissioner of labor of the State, there was about 1 child out of about 16 who were working at gainful occupations in the State, employed in the cotton mills. I mean by gainful occupations those who have to work on farms and in other matters.

Senator POMERENE. Have you any information as to the numbers that are employed in tobacco factories?

Mr. PATTERSON. No, sir; I know nothing about that.

Senator POMERENE. Can you include that in your data that you are to furnish us?

Mr. PATTERSON. Yes, sir; I can include it. Of course you understand that the number of white children in the tobacco factories is very small. They are practically all negro children.

Senator ROBINSON. Have you canneries in that State?

Mr. RUFFIN. There may be some in the extreme eastern part of the State.

Senator ROBINSON. Are children working there?

Mr. RUFFIN. I do not know whether there are any there; there may be. There is one other point that I would like to mention, and that is, that this bill, as I understand it, affects the whole United States alike. The condition, so far as the cotton mills are concerned, varies; they are very different. The mills in New England and in the Eastern States are entirely different from ours. In the first place to start with labor, we have to draw our labor, green labor, right off the farms of the tenant class. We have to pay them from the time they go into the mill, and while they are learning, which takes from 6 to 12 months. That is a large expense.

Senator POMERENE. What do you pay them?

Mr. RUFFIN. From 75 cents up.

Senator POMERENE. You start them at 75 cents?

Mr. RUFFIN. Seventy-five cents; yes, sir. That is a large expense that we have to undergo which the eastern mills do not have. Their help is trained. They are educated in the mill to a large extent.

Senator POMERENE. Their children must begin there, too, sometimes.

Mr. RUFFIN. Yes, sir; sometimes, but after you live in a mill settlement or town you imbibe those influences largely, and the child

hears them talked—he hears machinery talked from the time it is born. With our people it would be entirely different.

Senator POMERENE. That is, before they come in there; but after they get into the town they would talk cotton mill, would they not?

Mr. RUFFIN. That is what I say. In a cotton-mill town they talk machinery all the time. Our people would be in the same condition after two or three more generations. For instance, we have a family in our town with three generations. The mother worked in the mill, her son worked in the mill, his wife worked in the mill, and he has children. It is the only instance that we have of three generations. His children will know more about a mill when they are 12 years old than he knew when he was grown.

Senator POMERENE. If heredity has that effect, is that not a reason why we should be very guarded about regulations with respect to children?

Mr. RUFFIN. I did not say heredity, but association. We were discussing this morning the freight question. From Galveston and Houston ports, cotton can be delivered and is delivered cheaper to the New England mills than is cotton bought in Georgia, Alabama, or Mississippi delivered to our North Carolina mills. The freight on cotton from Texas to our Carolina mills is prohibitive. We practically never use it in normal times at all on account of the freight rates being prohibitive.

Senator POMERENE. Do you mean the rate is excessive?

Mr. RUFFIN. I do not mean it is excessive; no, sir. The distance is there and they can deliver it in Liverpool and in Bremen, in New Bedford and Fall River, owing to the water conditions—the water front—cheaper than they can to us.

Senator POMERENE. That is after they get it down to the wharves?

Mr. RUFFIN. No, sir; I mean the entire rate, cheaper than they can to us in the Carolinas.

Senator POMERENE. How far are you from the coast?

Mr. RUFFIN. I am from Norfolk about, I suppose, 300 or 400 miles, but you have to haul it to Norfolk.

Senator CUMMINS. Do you regard that as a material fact in this inquiry?

Mr. RUFFIN. Not only material but very material as to the making of a law to regulate or to equalize two manufacturing establishments, one located in New England and one located in North Carolina.

Senator CUMMINS. I assume that a bill of this sort is based upon the idea that it is not good for the child to work under 13 or 14 years of age. Now, if it is not good for the child, what difference does it make what the freight rate is?

Mr. RUFFIN. I am merely referring to this—you were not in the room this morning. I was referring to an inquiry that was made here this morning. I do not say that the child has anything to do with freight.

Senator CUMMINS. You were suggesting that, I assume, as a reason that makes it necessary for you to employ children.

Mr. RUFFIN. No, sir.

Senator CUMMINS. Well, then, I was mistaken.

Mr. RUFFIN. You are mistaken about that.

Senator CUMMINS. What was the materiality of it?

Mr. RUFFIN. In the first place, the question was asked this morning as to the difference in freight. I referred to it simply to show that a bill of this character put an injustice on the southern mills, from the standpoint of earning capacity.

Senator CUMMINS. Well, then, after all, it comes back to the suggestion, whoever made it—whether you or anybody else—the idea meant to be conveyed was that you must employ children there.

Mr. RUFFIN. Not necessarily.

Senator CUMMINS. In order to enable you to carry on your business profitably.

Mr. RUFFIN. That was not my contention.

Senator CUMMINS. Some one must have done that.

Senator CLAPP. That was not this witness, but it was urged by some of the witnesses, that among other reasons, why they could not compete with New England on account of the advantages which New England had in freight.

Senator CUMMINS. And no one contended that you must do something bad for the child in order to enable the factory to exist?

Senator CLAPP. Not at all.

Mr. RUFFIN. I have nothing further to say, gentlemen.

Mr. ROBERTS. May I make a little explanation right there?

The CHAIRMAN. Yes.

Mr. ROBERTS. In reply to Senator Cummins. He seems to have gained the impression that we are making the claim that we desire some special privileges in the working of children to offset some special advantages that other manufacturers have in New England. That is not the proposition at all. What Mr. Ruffin is trying to make clear is that you can not equalize fundamental conditions that surround these different manufacturing establishments in different parts of the United States by any law.

Senator POMERENE. Does that not go to the wisdom or unwisdom of the company in the location of the factory?

Senator CUMMINS. I was not able to see its materiality because there are many other reasons of course that might affect the cost of production aside from child labor. The cost of adult labor would have the same effect, but I could not imagine that anybody would insist that the children ought to be permitted to work simply because through their work the factory might be able to compete with some other factory. That to me would be very horrible.

Mr. ROBERTS. I quite agree with you, Senator. We covered that ground very fully yesterday in a great many aspects. We, none of us, think that we have any pecuniary advantage in the working of children. We have argued this point here from the standpoint of the inherent human rights of a person to earn a living when he needs to do so.

Senator CUMMINS. That is quite a different proposition.

Senator CLAPP. The first witness who appeared before us yesterday emphasized the fact that this was peculiarly hard on the South in competition with New England. He emphasized the advantage that New England had in the freight rates. It is in the record. There is no question about that. It was not material, still it went in.

Mr. RUFFIN. Before retiring I wish to join with Mr. Patterson, the manufacturer, in extending to you gentlemen an invitation to

visit any of the southern mills, either as a whole committee or as a part of the committee, so that you may see conditions for yourselves.

Senator CUMMINS. Will you allow me to ask one more question? I unfortunately was not here this morning or at the meeting before that one. You were reading an extract when I came in this afternoon. From what book were you reading?

Mr. RUFFIN. Here it is [indicating].

Senator CUMMINS. Could you give me the title?

Mr. RUFFIN. It is "Annual Report of the Surgeon General of the Public Health and Marine Hospital Service of the United States for the fiscal year 1908."

Senator CUMMINS. I am simply trying to connect with what you were saying.

Mr. RUFFIN. Yes, sir.

Senator CUMMINS. My inquiry, or my thought is, was the extract that you were reading for the purpose of proving that it was better for the children to work in the cotton mill than to be where they probably would be if they were not working in the cotton mill?

Mr. RUFFIN. Absolutely; yes, sir.

(Mr. Ruffin was thereupon excused.)

The CHAIRMAN. Gov. Kitchin, have you any other gentlemen who desire to be heard?

Mr. KITCHIN. We have no other witnesses to go upon the stand, Mr. Chairman. We wish the opportunity to file some information which we telegraphed for, namely, a compilation by the secretary of the Southern Cotton Manufacturers' Association. I suppose the other side has some evidence to offer.

Senator CLAPP. We met this afternoon principally for the purpose of hearing you, Gov. Kitchin.

Senator POMERENE. We are very anxious to hear you upon the legal proposition.

Mr. KITCHIN. I shall be glad to submit some observations.

ARGUMENT OF HON. W. W. KITCHIN, OF RALEIGH, N. C.

Mr. KITCHIN. Mr. Chairman, there is a question of policy that applies to this bill, which affects not merely the southern cotton manufacturers, whose executive committee I represent, but all the industries in the country. Before proceeding with a discussion of that proposition, I wish to say, particularly to Senator Cummins, that the way the question came up with regard to freight rates was this: One witness this morning said that you could not equalize conditions, and he named among things that you could not equalize, freight and fuel. I am sure that the basis of his remark was the argument that was made on a similar bill last year, which was repeated recently in the House, that it was necessary and proper to pass this bill in order to equalize manufacturing conditions between the States that already have satisfactory child labor laws and the States that have not such laws.

This committee will give serious consideration to the question whether, even if they have the power, it is wise to adopt this legislation. It applies to the States and Territories and countries subject to the jurisdiction of the United States. The States have, of course, various natural conditions and varying climates, etc. We want you

to consider if this is not one of the things that ought to be left, regardless of your power, to the local sovereign to control, just as a matter of common sense.

It will appear to you at once that if the child can work eight hours a day in northern Maine, in some occupation, he can in southern California, in another occupation, work with as much safety and with as little harm 12 hours a day. In other words, if a boy is going to work 8 hours a day, we will say in a lumber mill or shoe factory or brickyard or any other factory where he is steadily at work during the day, he can work 10 hours a day in these spinning rooms, which have been fully explained, without any injury, on account of the lightness of the work and the favorable conditions. They are not steadily at work. They have to be around subject to the call of the foreman, where they can watch the machines, so that when the thread breaks or anything gets wrong, they can give it attention.

The question was asked, and it was a very reasonable one, if in other sections of the country or around other industries, there were not as many widows as there were around the southern cotton mills. The answer was no, that while there might be as many widows in one section of a country as in another, they were not around other industries as they are around cotton mills, and the explanation of it is that when a woman loses her husband and has to work to make a living for herself or for her children, and with her children, she would never think of going to a mine to work, especially if her children were girls. She would never think of going to a shoe factory. She would never think of going to hundreds of industries, but she knows about the cotton mill and of the good sanitary conditions under which her children work, and of the lightness of the work and the excellent compensation as compared with other work that the children could do in that community, and she is for these reasons anxious to go to the cotton mill.

There is another view. This matter was thrashed out, practically the same proposition, fully in the Senate about nine years ago when Senator Beveridge was championing the purposes of this bill, the difference being the putting of a penalty upon the interstate carrier instead of upon the manufacturer and dealer, many of the ablest lawyers in the Senate participating in the discussion. About the same time the power of Congress in such matter was referred by the House to the Judiciary Committee, and many able lawyers made thorough investigations and the House Judiciary Committee reported unanimously against the power of Congress to pass such legislation.

Senator POMERENE. That is, to do what is contained in this bill?

Mr. KITCHIN. Practically the same proposition was then pending and agitated in the country, the Beveridge bill, which contained the 14-year limit. It did not contain the 16-year limit, but the principle is exactly the same. It put a penalty for transporting goods, made by children under 14 years, upon the transportation companies, while this bill includes the 16-year eight-hour provision, as well as the 14-year minimum age limit, and puts the penalty upon the manufacturers and dealers. So in principle it is substantially the same bill.

Now, after that time I think the country generally believed that the matter was settled. But nearly all things that have a good purpose in them live. There are always good people, and they can find

backing to have any worthy purpose agitated, whether it is a practical matter or a wise matter or not. I am glad to say in most instances these great agitations have been wise. But if this bill is passed, waiving the doubtful authority for it, I would predict that within five years there will be pressed, and vigorously pressed, upon Congress a proposition to prevent the transportation in interstate commerce of any goods made by any labor over eight hours a day. I will not say that it will thereafter be followed by bills for reducing the hours to six or five. I do not think it is an extravagant prediction to say that you will have to meet a proposition to bar from interstate commerce all goods not made by organized labor, because I take it you gentlemen do not doubt that organized labor is worthy and good, and, in order to emphasize the benefits of their organizations, I take it that you may anticipate that kind of agitation. I am not saying that it is either wise or unwise.

There is great demand for universal education. Why may you not some time in the future expect a proposition to be pressed upon Congress to use the interstate commerce clause in behalf of education by preventing in interstate commerce goods made by people who have not passed through the schools or through a certain grade? You could enforce suffrage in that manner. In fact, gentlemen, if this bill passes it opens wide the door for pressure upon Congress for all sorts of remedies through the National Government in matters that are purely State affairs.

So I submit, as a matter of policy, it is unwise. I am to discuss, however, particularly what I conceive to be the unconstitutionality of this proposition.

You are familiar, of course, with the constitutional provision that gives the Congress the power to regulate commerce with foreign nations, among the States, and with the Indian tribes. I am familiar with the utterances which say that that authority is complete and comprehensive. But, gentlemen, I have examined the decisions and I am going to ask you to believe that when Mr. Chief Justice Marshall put in the case of Gibbons *v.* Ogden (9 Wheat.) the statement that the power over commerce between the States "is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations," he added, "other than as prescribed in the Constitution," he emphasized that in the Constitution there are limitations upon the power over commerce between the States. Mr. Justice Harlan, in the One hundred and eighty-eighth United States, in the Lottery cases, in discussing this power, says that "although plenary can not be deemed arbitrary, since it is subject to such limitations or restrictions as are prescribed by the Constitution. This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument."

The Addystone-Pipe case (175 U. S., 211) refers to Gibbons *v.* Ogden as holding this power is complete in itself and acknowledges "no limitations other than are prescribed in the Constitution."

In Adams Express Co. *v.* Kentucky (238 U. S., 197) the court says: "This power (interstate commerce) is comprehensive and subject to no limitations except such as are found in the Constitution itself." This case was under the Webb-Kenyon law.

Now, Mr. Chairman, I am compelled to give some faith to those expressions. When the courts use the words "comprehensive" and

"plenary," I think you will find that they have been used in cases where the court found that Congress had jurisdiction over the subject matter. If it has power, then it has plenary and unlimited power. But the courts have never held that this power covers everything.

But you are already asking what are the restrictions in the Constitution upon this power. So far as the Indian tribes are concerned, I know of no restriction. That is absolute—the power of regulating commerce with Indian tribes. As far as the foreign commerce is concerned, the Constitution had one specific restriction, that Congress should pass no law prohibiting the migration or importation of such persons as any of the States thought proper to admit until the year 1808.

Every nation has an inherent sovereignty over foreign trade, and the Constitution intended to confer on Congress unlimited power over such trade only qualified by other parts of the Constitution. No citizen or subject has any right to foreign trade except as permitted by his sovereign. Under the principles applying to independent nations, they fix the terms of foreign intersource, and to limit it in any way in our country a restraint in the Constitution was essential. In a free country citizens have an inherent right to trade in lawful articles among themselves. With the exception of the 1808 limitation touching slavery and the treaties made by virtue of the Constitution, there is no limitation on Congress over foreign articles. You can deport a foreigner from the United States. You can not deport an American citizen. You can forbid the importation into this country of any particular article from any particular country unless a treaty forbids.

Now, the question is whether you have that power over the commerce between the States; whether Congress has the power among the States to forbid wheat from Minnesota to go into the State of Illinois. You can forbid—if there is no treaty that prohibits—the wheat of Manitoba from going into Illinois, but can you prohibit sound wheat from one State to another?

One restriction or limitation of the power of Congress over interstate commerce, is contained in the fifth amendment to the Constitution. The first ten amendments were adopted as restrictions and limitations on the Constitution and were intended to further guarantee the rights of the people. If there is any difference between those amendments and any clause of the original Constitution, the amendments should prevail.

The fifth amendment, and this is the clause I want to discuss, contains this expression, in substance, that no person shall be deprived of life, liberty, or property without due process of law. The main question that will arise for your consideration is whether a man who owns goods all right in themselves made by children working under 16 years of age more than 8 hours a day, has the right to ship those goods into another State for a lawful purpose, and if he has that right, whether it is a guaranteed right under the fifth amendment?

In my opinion a man has the absolute right to deal within the bounds of the Nation, in all legitimate, helpful, and fair commerce, which is not misbranded, not immoral, not fraudulent, not impure, and that Congress has no rightful power to deprive him of that right.

In Coppage *v.* Kansas (236 U. S.) the Supreme Court held void a law of Kansas under which Kansas undertook to forbid employers

from discharging from their service or failing to employ one because he belonged to a labor organization, following the Adair case which nullified a similar law of Congress. The court held that it was one of the guaranteed rights of the citizen to make his own contracts, and he had a right to employ a man so long as he remained out of a labor organization, and that that law was void.

Now, at first blush one might think that the States have that power which Kansas assumed, but if he will read that decision and the one it follows he will see clearly that there are rights not derived from the Constitution which the Constitution guarantees. Is not the right to deal lawfully in lawful goods as clear as the right to contract for unorganized labor?

Prior to the organization of this Government under the Constitution, each State had the right of an independent nation and had the right to levy any embargos, any prohibitions, or any taxes it pleased upon goods coming from another State. All the commentators tell us that the exercise of that power by the various States was the great cause that impelled the organization of the United States under the Constitution. It was to prevent one State from saying that the goods of another State should not enter.

I do not know that I have seen it stated any more clearly than in Tucker on the Constitution. He uses this language:

> Under the Articles of Confederation the States could interdict trade inter se. The grant of power to Congress to regulate commerce was with the purpose not to transfer this power of interdicting interstate trade to Congress, but to leave interstate commerce free, as the Constitution intended, in order to form a more perfect Union. Could the Constitution have intended to destroy the freedom of interstate trade by congressional power, when it took it from the States and vested it in Congress in order to prevent such destruction? (2 Tucker on Constitution, 528.)

Now the States with sovereign power merged into the United States under the Constitution, so far as interstate trade is concerned, when that took place, they were as to the Union just as the counties are to the State in intrastate trade. As citizens they had this right of interstate trade. They formed the Union, as Mr. Tucker says, for the purpose of preventing interdicting trade from one State to another. So when we surrendered to Congress the power over interstate commerce and put in the fifth amendment, the guaranty of the rights of life, liberty, and property, there exists now no power, either in the States or the Nation, to forbid the transportation in interstate commerce of pure, blameless, harmless, fair articles.

Senator CUMMINS. Mr. Kitchin, do you remember what was known as the commodity clause that was put in the interstate commerce law of 1906?

Mr. KITCHIN. Yes, sir; I remember that.

Senator CUMMINS. And you remember the decision of the Supreme Court upon that clause?

Mr. KITCHIN. I have not read that decision recently.

Senator CUMMINS. Well, that clause provided that a railroad company should not take for shipment a commodity as harmless as coal and transport it to the markets under certain conditions. The Supreme Court in passing upon it did not affirm its constitutionality, but, as you will remember, discriminated in this way: The particular coal involved in that suit was mined and owned by a subsidiary company. The Supreme Court held that the subsidiary company was

not within the purview of the prohibition of the statute. But would there by any difference, in your opinion, between the cases intended to be covered by the commodities clause of the law of 1906 and this one which you are arguing?

Mr. KITCHIN. I have not given that particular matter consideration, but I should say the power of Congress over the instrumentalities of interstate commerce could be used to prohibit those instrumentalities from being used fraudulently, in a sense, and oppressively.

Senator CUMMINS. You will remember, I think, that Senator Bailey, who is a pretty well recognized lawyer in this country, and a very sound lawyer, and especially with respect to questions which relate to the Constitution, proposed the amendment, because it was not fair that a railroad company should own the commodity that it transported and enter into competition with other shippers in the sale of that commodity, whatever it might be. That was the foundation of the amendment.

Mr. KITCHIN. Yes, sir; but I do not think that will contradict the idea that I have, or any of the authorities that I shall cite. I can understand that when a railroad, competing for the public business, and having the power to charge freight rates, ships its own commodity it would have a great advantage over any other dealer, and the idea of requiring the interstate carriers to confine themselves to interstate transportation may be a sufficient differentiation of that case from the present one.

Senator CUMMINS. I am not saying, of course, that it is identical, but I wondered whether you had that statute and decision in mind.

Mr. KITCHIN. No, sir; I have not looked that up. Citizens of the United States, let me repeat, as far as interstate commerce is concerned, have the same right in interstate commerce that we have as citizens of the States in intrastate commerce. The argument was used in the discussion heretofore in the other end of the Capitol, that if the State had the right to pass this proposition for intrastate commerce, then the United States has the right to pass it in interstate commerce. True, but the State itself has no power to prohibit the buying and selling and transportation within its borders of goods because made by children or women in the State unless those goods were unlawfully made.

Senator CLAPP. You are speaking of the State now before it was merged into the Union?

Mr. KITCHIN. No; I am speaking of the present. The State of North Carolina, for instance, has no power to forbid me from shipping from one county to another, for a lawful purpose, wheat or cotton or anything else that is lawful in itself and fairly branded, not adulterated, not fraudulent, not immoral, on account of its manufacture, unless its manufacture was contrary to the law. Take cotton goods as an example. The cotton goods made in North Carolina, which would be barred from interstate commerce under this bill, are lawfully made. They are sound. They are as good as if made by a 30-year-old man in every respect; there is no harm in them, no misbranding, and no fault can be found with the goods themselves. A manufacturer, we will say, makes the goods in North Carolina. A wholesaler in another part of the State buys those goods. Now, can you prevent that wholesaler from transporting them into interstate

commerce? That brings us down to the proposition, it seems to me, whether this is an arbitrary power or not. If it is an arbitrary power, why did not the courts say so when they first met this question? And yet the court has said it is not an arbitrary power.

I put this question to some gentlemen: Would any man argue that 75 years ago Congress would have had the power under this clause to permit the transportation into interstate commerce of goods made by slave labor? If it had the power, is it not a little remarkable that no great lawyer who was against slavery ever thought of limiting its evils by barring its products from interstate or foreign commerce?

Senator CLAPP. I do not desire to interrupt you too much, but what would you say of a proposition to bar convict-made goods?

Mr. KITCHIN. I will make a note of that and come to it a little later on. If I do not, I wish you would call my attention to it again. I have looked that up somewhat.

Senator CLAPP. Very well.

Mr. KITCHIN. Now, will there be a Member of the United States Senate who will give this matter consideration who will for a moment think that the United States Government ever would have been formed if the Southern States had understood that the Congress had the power to bar their products from the markets of other States? You will find gentlemen who will say "No; of course 60 or 70 years ago this proposition would have been held unconstitutional; but we have progressed." I have sometimes been classed as a progressive myself, but here is the point I submit to the conscience of every man: If that clause did not contain that power 60 years ago, is it right to insist that it has the power now? In other words, if it could not have been fairly construed to contain that power a couple of generations ago is it fair to give it that construction now?

When the United States was formed, its people had rights within the United States just as one in a State had the right within its borders to do as he pleased with his property so long as he did not injure anybody else, buying and selling in whatever county he pleased. How can you come to the point that an article, sound in itself and lawfully made, can be prohibited by Congress from going to another State for lawful use? The personal rights of every man in the country were guaranteed by the fifth amendment; not his personal wrongs. The United States Supreme Court and other courts have held that the right to life, liberty, and property includes the right to buy and sell and travel and act as free men in this country. (See Allgeyer *v.* Louisiana, 165 U. S., 578, 589.) This Government would have the power of the most tyrannous despot who ever cursed the world if it had the power arbitrarily to say what a man shall buy and what he shall sell and where he shall go and what he shall transport. The courts have practically held that the right of liberty includes all other rights. Now, the right to sell and deal in lottery tickets—which was a case the advocates of this bill rely upon—never existed. It was a wrong. The court so held. It was an immoral act, an immoral business. The right to sell impure foods and drugs was never a right; it was a wrong. There never was a right to sell baneful or fraudulently branded goods. There never was a right to transport a bad woman into another State for a bad purpose. They were wrongs, and acts of Congress denying them interstate-commerce privileges have been upheld.

But will it be contended by gentlemen on the other side that the right to prohibit impure foods and drugs into another State is the same as the right to prohibit pure foods and pure drugs from going into another State? One is a wrong, the other is a right. Will you rely upon the white-slave cases that sustained the Mann White Slave Act, which prohibited the transportation or securing the transportation of bad women from one State into another for immoral purposes, which never was right, and put that on an equal footing and give it equal dignity with the right of an upright, honest gentleman to pay the transportation of a woman missionary of good life and pure spirit into another State?

Listen to Justice McKenna in the case of Hoke *v.* United States, a white-slave case. Mr. Justice McKenna says:

> The contentions (that is, against the white-slave act) confound things important to be distinguished. It urges a right to be exercised in morality to sustain a right to be exercised in immorality. * * *
>
> It is the right given for beneficial exercise which is attempted to be perverted to and justify baneful exercise as in the instance stated. * * *
>
> Let an article be debased by adulteration, let it be misrepresented by false branding, and Congress may exercise its prohibitive power.

Is that not a clear intimation that unless it is misbranded, adulterated, fraudulent in itself or injurious, that Congress may not exercise its prohibitive power?

Senator CUMMINS. Do you think it could require that these goods should be branded——

Mr. KITCHIN. I doubt that.

Senator CUMMINS. Without any suggestion that they are made by child labor?

Mr. KITCHIN. I doubt that, and I might now just as well answer your question, Senator Clapp, with regard to convict-made goods. My investigation has led me to think that Congress has no power to prohibit convict-made goods from going into other States if the goods themselves are all right. Massachusetts, New York, and Ohio have very strong opinions on this case. The legislature of Massachusetts requested the opinion of the supreme court upon the proposition of the right of the State to regulate convict-made goods coming from one State to another State, and the unanimous opinion of the justices in Massachusetts in 1912 or 1913—just two or three years ago—was that the legislature of Massachusetts had no such power. In the New York case and in the Ohio case, which I cited in my argument before the Labor Committee at the other end of the Capitol, they held the same position.

The case of Schollenberger *v.* Pennsylvania (171 U. S., 12), which involved the validity of a State oleomargarine statute, the opinion of the court says:

> The general rule to be deduced from the decisions of the courts is that a lawful article of commerce can not be wholly excluded from importation into a State from another State in which it was manufactured or grown. * * * The bad article may be prohibited, but not the pure and healthy one.

In the argument that I am making my contention is that Congress has no power to regulate interstate commerce in cotton goods in that manner which takes the form of prohibition. I concede the difference between regulation by prohibition and regulation by branding. Prohibition destroys the right of a citizen (People *v.* Hawkins, 157

N. Y.), while his right may be preserved though cumbered with proper branding, and if branding should be applied to all articles of interstate commerce it would add weight to the difference, but before an article can be prohibited it must have some inherent vice or be intended for some vicious purpose.

Here is a case handed down on January 10, last month, in which it seems that Mr. Justice Hughes recognized that there must be something wrong with the article or in the purpose for which it is going to be used before prohibiting it. In other words, the article must be of such character as will do damage in the State in which it it goes before the goods can be barred, and must be charged with that character while it is a part of interstate commerce.

This is the case of seven cases (more or less), each containing 12 bottles of Eckman's Alterative, Eckman Manufacturing Co., owner, plaintiff in error, *v.* The United States, involving the pure food and drugs act.. In this opinion, referring to McDermott *v.* Wisconsin (228 U. S., 115), he says:

> And, after stating that the requirements of the act thus construed were clearly within the power of Congress over the facilities of interstate commerce, the court added that the adoption of original packages set forth in repeated decisions which protected the importer in the right to sell the imported goods was not "intended to limit the right of Congress, now asserted, to keep the channels of interstate commerce free from the carriage of injurious or fraudulently branded articles and to choose appropriate means to that end."

He further says:

> Referring to the nature of the statements which are all within the purview of the amendment, it is said that the distinction should be taken between articles that are illicit, immoral, or harmful and those which are legitimate, and that the amendment goes beyond statements dealing with identity or ingredients. But the question remains as to what may be regarded as "illicit," and we find no ground for saying that Congress may not condemn the interstate transportation of swindling preparations designed to cheat credulous sufferers and make such preparations accompanied by false and fraudulent statements illicit with respect to interstate commerce as well as, for example, lottery tickets.

In the last volume of the Supreme Court Reports, the two hundred and thirty-eighth, page 439, in the case of the Delaware, Lackawanna & Western Railroad *v.* Yurkonis, the Supreme Court held that one mining coal, which coal was to be used in interstate commerce, was not himself engaged in interstate commerce. If one mining coal for interstate commerce is not subject to the power of Congress, then one manufacturing cotton goods for interstate commerce is not subject to the power of Congress under the commerce clause.

Congress has no power over manufacturing. That was held in the Sugar Trust case, the Knight case (156 U. S., 1), and it was distinctly held in Kidd *v.* Pearson (128 U. S., 21) that went up from Iowa, I believe. The power is over commerce, and in these cases the court clearly and most strongly stated that Congress had nothing to do with any article until it became a part of interstate commerce, until it was delivered for the purpose of shipment (Coe *v.* Errol, 116 U. S., 517).

Senator CUMMINS. You are referring to the case of Knight *v.* United States?

Mr. KITCHIN. The United States *v.* E. C. Knight (156 U. S.).

Senator CUMMINS. It is pretty well understood that that case has been discredited by subsequent decisions.

Mr. KITCHIN. If that particular principle has ever been reversed or the principle in Kidd *v.* Pearson, I am not aware of it. As to the difference between manufacture and commerce, and that is the only purpose for which I cite it, namely, that the court recognizes the clear distinction between manufacture and commerce, and that Congress has no power over it until it becomes a part of commerce. Such expressions are used as "commerce begins when manufacture is ended."

Senator CUMMINS. I do not see how you maintain the antitrust law at all, then.

Mr. KITCHIN. That is, I think, on a different principle because it was the common-law offense of combining into a monopoly that the States could not meet because it was not organized within their States. The antitrust act makes criminal as to interstate commerce what the common law makes criminal in the States. The Knight case let out the Sugar Trust because the court said it was more a manufacturing than a commercial concern so far as the bill in that case read.

Senator ROBINSON. You are familiar with the Addystone Pipe case, are you not?

Mr. KITCHIN. I remember reading it very carefully when it came out.

Senator ROBINSON. Do you not draw from that case the conclusion that contracts relating to manufacture which have the effect, or are calculated to have the effect, of restraining commerce, are within the power of Congress to prohibit?

Mr. KITCHIN. Yes, sir; commerce, that is it.

Senator ROBINSON. Even though the contract relate to manufacture?

Mr. KITCHIN. But it must refer to and embrace principally commerce.

Senator ROBINSON. Yes; contracts for the manufacture of articles designed for interstate commerce.

Senator CUMMINS. The Knight case did it in the same way that the Addystone Pipe case did it. I supposed it was universally recognized that the Knight case had been reversed. Not in terms, of course.

Senator ROBINSON. But modified by subsequent decisions, and very strongly modified.

Senator CUMMINS. I know that nothing is left of it at all in view of subsequent decisions.

Mr. KITCHIN. The Addystone Pipe case, in 175 U. S., reiterated the distinction between commerce and manufacture as set out in the Kidd *v.* Pearson case and in the Knight case, quoting largely from the latter case on this point, and explaining that in the Knight case the combination had the direct purpose of controlling manufacture, and that there was nothing in it looking to transactions in the nature of interstate commerce. The court held that the Addystone Pipe contracts directly and not incidentally operated on commerce, and that they trespassed upon the power of Congress in that they undertook to regulate interstate commerce. The court held "the power of Congress to regulate interstate commerce comprises the right to enact a law prohibiting the citizen from entering into those private

contracts which directly and substantially, and not merely indirectly, remotely, incidentally, and collaterally regulate, to a greater or less degree, commerce among the States." Upon this principle our trust laws rest.

Now, back to Kidd *v.* Pearson. Since the court held in that case that Congress had no jurisdiction over manufacture in the States, although it was of goods to be used exclusively in interstate commerce, holding that the exclusive purpose of commerce between the States would not justify the courts in protecting the manufacture when illegal in a State, it would seem to follow that the conditions of manufacture in a State can not impose a contraband character upon an article in commerce in itself of lawful character and use.

To justify prohibition, the Supreme Court must be satisfied that an article is bad or on a bad mission, as it described the lottery tickets, the white-slave cases, impure food and drugs, adulterated, misbranded, and fraudulent goods. I have found no cases except those that were bad in themselves and that line of cases like loose hay, which in themselves are dangerous to interstate commerce or the instrumentalities thereof, that the court has sustained—not one.

Now, in addition to those authorities——

Senator CLAPP. Judge, have you found any case where the court holds that it is for the court and not for Congress to determine the unfit character of the goods?

Mr. KITCHIN. No, sir; I have found this, though, in the lottery cases. Judge Harlan says in substance that they will not undertake to define the rule that will cover all cases, but that it is easy to imagine that cases may arise in which the power and duty of the court to declare the act void may be plain, and the fact that in these impure-drugs and white-slave cases and others they have always found that the article was deleterious in itself.

Senator CLAPP. But all those cases were cases where there was common consent.

Mr. KITCHIN. By common consent—universal consent.

Senator CLAPP. There is no doubt about that.

Mr. KITCHIN. And I think—I may be wrong about it—but I think the Supreme Court itself must be satisfied that the character of the prohibited article justifies its prohibition. It is universally conceded that power over manufacture is reserved to the State. Congress has no power to look into the manufacture of an article under the commerce clause. It can look into the article itself when it becomes a part of interstate commerce, and if it is subject to just criticism, it can lay its hands on it, but if when an article leaves the factory and becomes a part of interstate commerce, it is beyond criticism in character and mission, then Congress has no power over it. I take it that it will be admitted that Congress has no power to follow in a State the distribution of goods after the original packages are broken, because after delivery to the consignee and the original packages are broken, interstate commerce is at an end and they become mingled with the goods of the State, and are no longer subject to Congress, and Congress has no more power over them before they become interstate commerce than it has after they have ceased to be interstate commerce.

Ex-President Taft in his Yale law lectures, in a volume called "Popular Government," discusses this very question as to whether

Congress had the right to pass an act undertaking to regulate child labor or undertaking to prohibit the transportation into interstate commerce of goods made by the labor of women and children, and he takes strong grounds against it. He says, and what I read is to be found on pages 142 and 143:

Bills have been urged upon Congress to forbid interstate commerce in goods made by child labor. Such proposed legislation has failed chiefly because it was thought beyond the Federal power. The distinction between the power exercised in enacting the pure-food bill and that which would have been necessary in the case of the child-labor bill is that Congress in the former is only preventing interstate commerce from being a vehicle for conveyance of something which would be injurious to people at its destination, and it might properly decline to permit the use of interstate commerce for that detrimental result. In the latter case Congress would be using its regulative power of interstate commerce not to effect any result of interstate commerce. Articles made by child labor are presumably as good and useful as articles made by adults. The proposed law is to be enforced to discourage the making of articles by child labor in the State from which the articles were shipped. In other words, it seeks indirectly and by duress to compel the States to pass a certain kind of legislation that is completely within their discretion to enact or not. Child labor in the State of the shipment has no legitimate or germane relation to the interstate commerce of which the goods thus made are to form a part, to its character, or to its effect. Such an attempt of Congress to use its power of regulating such commerce to suppress the use of child labor in the State of shipment would be a clear usurpation of that State's rights.

Now, the argument has been made that if Congress can look forward and see that a lottery ticket or a bad woman or an impure food or misbranded drugs will do harm, in the State where it is going, why can it not look back and find where those goods came from and apply the same principle of exclusion on account of their origin? The reason, it seems to me, is clear. Congress has power over goods in interstate commerce, but it has no power to prohibit any except the bad ones. Looking back to the place of manufacture would be like looking forward to the place of distribution after the articles have ended their interstate commerce character. But Congress does not exercise power over goods in the hands of retail dealers after the original packages have been broken. Congress exercises its powers over these goods in commerce while they are part of commerce. While a part of interstate commerce, the power can be exerted to investigate the character, purpose, and use of the goods, and if found illegal the power to prohibit exists, whether future damage would result from the goods or not. Its contraband character can be ascertained while they are a part of commerce. Congress may be responsible for damage that may be done by bad articles when it permits their interstate transportation. Congress has no power to investigate the character of an article before it becomes a part of interstate commerce and it can not be responsible for injury which may result from the interstate transportation of wholesome cotton goods, shipped for a lawful purpose, for the simple reason that no injury can possibly result therefrom. It can not exercise power over goods after their interstate commerce character has ended, and can not exercise it before it begins. To do that would be seeking to do by indirection what Congress can not constitutionally do directly under the commerce clause. I am aware that Congress has done things by indirection under the taxing power, which is a different power altogether, and Congress has accomplished its purpose in many instances, such as with respect to State bank notes, etc.

Can you regulate child labor by indirection when you can not directly? I suppose the court would apply the same rules to an act of Congress that it applies to the constitution of a State. You are all familiar with the recent Oklahoma decision. It affects not only Oklahoma, but my State and some other States. The Constitution says that the right of suffrage shall not be abridged on account of race, color, or previous condition of servitude. The Oklahoma constitution, in substance, says this: "We will make a universal educational qualification of suffrage, and everybody in the State of Oklahoma that can read and write any clause of this constitution shall vote," and nothing is said about color and race, and thousands of colored men who can read and write, I take it, did vote. Many do in my State. Now, Oklahoma passed a further provision in that constitution, and so did North Carolina. It says: "Now we give this educational qualification, but in addition to this you may qualify under another section; we are going to extend, not to deny nor abridge, but we are going to extend the suffrage," and the extension clause was this, that those whose fathers or who themselves could vote on a certain date in 1866, I believe it is their date, shall also be permitted to vote.

Senator CUMMINS. Whether they can read or not.

Mr. KITCHIN. Whether they could read or not. The Supreme Court could not find in that language any mention of race. It was a general educational qualification, that everybody can vote who has it, and in addition those whose ancestors voted at a certain date in the sixties; but the Supreme Court of the United States held those constitutional provisions void, because, in effect, even a State can not beat around the bush that way.

Now, does not every man know, and was it not conceded in the argument, that the purpose of this bill is the regulation of labor of the children in the several States, and do we not know that we are trying to use the commerce clause to affect conditions that are purely internal, domestic affairs? That is, if you eliminate the competition idea—which, I take it, you will eliminate—we are striving by this Keating-Owen bill to compel the States either to enact laws, or without any State law, compel the manufacturers to conform their enterprises to the will of Congress in regard to the production of goods, which admittedly Congress can not directly do.

If the authors of this bill had thought that Congress could say directly that no child in the United States of America shall work until he is 14 years of age, and no child under 16 years of age more than eight hours, this bill would not have been drawn in its present form.

Now, gentlemen, is it right for Congress to force upon the States by indirection the destruction of their control over matters that were reserved to them in the Constitution, and is it right, by indirection, to deprive the people of the States of their right to manufacture in the States according to State laws? Is not this a wrong step?

Senators, if you should pass this bill—I will not discuss amendments to it now—but it does seem to me that there should be amendments that would meet the conditions in the various parts of the country. Many of the States that have passed laws—and so far as I know they have met the approval of the child-labor committee—exempt from the law on account of poverty, and many of them exempt on account of certain industries. The great national child

labor evil is not, in my judgment, found in the cotton mills but is found in the tenement houses of the great cities, and this bill does not touch them, or if so, touches them very lightly.

It may be a matter of interest to some of you gentlemen to know that in one of the wealthiest and best governed cities of this country, Boston, on the 1st of January a year ago, the Associated Press sent out a dispatch that a hundred and some odd children, in a certain school district of about two thousand children, were found in the garbage cans day after day picking the refuse and eating it, and in a certain other district, out of several thousand children, there were something like seventeen or eighteen hundred children who made a habit of doing that, and a committee was recommending some legislation—the committee that had charge of it—to forbid it. Those children do not work in a cotton mill.

Now, you can not reach a condition like that by appeals to us, but that is a peculiar proposition for the city of Boston and State af Massachusetts. When you make a universal rule you are going to do injustice somewhere in these matters that are of local concern. Should a sufficient number of people believe that sugar made of beets grown on high, dry land was better than sugar grown in the malarial, low grounds, and you should undertake to prohibit from interstate commerce all sugar except beet sugar, would you have the power to do it?

Now, gentlemen, I shall not read anything else, because I have detained you sufficiently, I hope, to have you fully appreciate the point that I believe is involved in this matter.

I will say, however, that Watson on the Constitution, published in 1910 by an eminent lawyer of Ohio, discussed this very question just as President Taft did, devoting several pages to it. It is volume 1, page 524. He analyzed all the cases up to that time and reached the conclusion that I have tried to impress upon you. Willoughby in, his work on the Constitution, also published in 1910, takes the very ground that I do and clearly gives his reason for it. It will be stated to you, and I am sure it is correct, that since he published that book Prof. Willoughby has modified his opinion to some extent. He told me he had qualified his opinion, but that he was going to look into it again.

Senator POMERENE. He modified it in what respect?

Mr. KITCHIN. Touching the power of Congress over this bill whether Congress had the power to pass child-labor legislation of this character.

Senator POMERENE. Was he here before the House committee?

Mr. KITCHIN. No, sir; he was not. I incorporated in my remarks before the House committee a page or two of his work on the Constitution, as his reasoning was clear and direct about it.

Senator POMERENE. Have you a reference to the volume so that it can be inserted in your remarks here?

Mr. KITCHIN. Yes, sir; volume 2, section 348, Willoughby on the Constitution.

Senator CUMMINS. If you are willing to do it, I should like to get your view on a question or possibly two that we have had before the committee for a long time. There have been a good many bills introduced in the Senate, especially, looking to the regulation of corporations engaged in interstate commerce, and we have had a good

many of them which proposed to regulate those corporations through prohibition; that is, through the prohibition of their activities in interstate commerce, where they were of a certain character, and a certain kind of organization. For instance, do you think we have the right to say that no corporation shall engage in interstate commerce unless its capital stock is fully paid up?

Mr. KITCHIN. I have not investigated that particular matter and, like all lawyers, I do not like to express even an off-hand opinion, but I think this: I think Congress would have the same power over corporations doing an interstate business perhaps that it does over bridges between States. It is an instrumentality of interstate commerce and I think the principle in the employer's liability cases would probably give power to Congress over interstate carriers.

Senator CUMMINS. I do not think you quite got my point. If we could say that a corporation which was organized in a manner that we thought detrimental to the public good, although organized under the laws of the State, should not engage in interstate commerce unless it did so and so, is there any parallel between that position and the position that a corporation which engages in child labor shall not engage in interstate commerce?

Mr. KITCHIN. I think there is a great distinction in it, because in one case you are regulating the instrumentalities of interstate commerce and in the other you are undertaking to regulate manufacture within a State.

Senator CLAPP. Judge, I do not think you get the point of the question.

Senator CUMMINS. I think possibly he does not; but suppose we were to say that no corporation which employs children under the age of 15 years or 14 years or 13 years, as the case may be, shall be permitted to enter interstate commerce in any form, not attempting to distinguish between the goods that are made by a child and the goods that are made by an adult, but the corporation which employs children below a certain age shall not be permitted to enter commerce at all?

Mr. KITCHIN. I do not think you would have that power. I know you have power over carriers engaged in interstate commerce. You have already regulated their hours of labor.

Senator CUMMINS. I understand that, but is there any difference in law? I am speaking of it not as a question of policy, but is there any difference between saying that a corporation which employs child labor shall not enter into interstate commerce and saying that a corporation which is organized—that is overcapitalized we will say—shall not engage in interstate commerce?

Mr. KITCHIN. There would be this difference. I think that overcapitalization is an evil, and is acknowledged as an evil, but even then——

Senator CUMMINS. No more than child labor; you do not mean to say that overcapitalization is morally more reprehensible than child labor?

Mr. KITCHIN. Well, it would depend; in some instances it would and in others it would not.

Senator CUMMINS. I am asking you whether there is any difference between those two cases, because we have had before our committee many, many such bills.

Mr. KITCHIN. I started to say, Senator, admitting for the present that the answer to that question would be no, that there is no difference morally between overcapitalization and child labor, that would not operate against the unconstitutionality of this proposition. Here you are forbidding goods which are the articles of commerce from entering when they are subject to no criticism in themselves.

Senator CUMMINS. The parallel that I instituted did not relate to the goods themselves. It related to the corporation or the employer, or the concern that produced them.

Mr. KITCHIN. Yes, sir; it would be a question for the courts, I should think, without having investigated it, to say whether that was an immoral over-capitalization in interstate commerce and especially whether it was directly engaged in interstate commerce instead of indirectly. Congress has no power to regulate men, but commerce between the States.

Senator CLAPP. Well, Judge, if the act was immoral, it would be local. It would not carry into the State to which the corporation was shipping any evil effects that impure food does. So it would eliminate the limitation which has been suggested so often, that the effect must be within the State to which the goods are going.

Mr. KITCHIN. I think that is the only ground upon which legislation by Congress could be upheld against the goods if the effect in other States is detrimental. That is the opinion I have reached, and I am glad to be supported in that by ex-President Taft, by Watson and by Willoughby on the Constitution, by the former Judiciary Committee of the House, and others.

Senator CUMMINS. Do you not know that President Taft recommended or rather was of the opinion that we had a right to pass a law for general incorporation under the power to regulate commerce?

Mr. KITCHIN. To pass a law for incorporation?

Senator CUMMINS. Yes.

Mr. KITCHIN. I think I recall that he did.

Senator CUMMINS. Do you not think that is expressing it a little more broadly?

Mr. KITCHIN. That would be extending the powers of Congress very much, and what would be the effect of that I would not anticipate; but I will say that if ex-President Taft had given a particular question as much care and study as I have this child-labor bill, I would have more faith in his opinion on that question than I would in my own, because he is abler and of course a more experienced lawyer, and can look at these things in a more judicial light than perhaps I can.

Senator POMERENE. I want to put this question directly; I think Senator Cummins touched upon it. You have tried to distinguish between corporations engaged directly in interstate commerce and those which are engaged indirectly in interstate commerce. I am not quite clear that I understand your distinction. Do you not think that a North Carolina corporation which sells goods of its own manufacture and ships them to Ohio is engaged directly in interstate commerce?

Mr. KITCHIN. Yes, sir; but I will add that its commerce would be incidental to its manufacture.

Senator POMERENE. And if that be so, then when those goods are being shipped, may not Congress determine what may be done in that behalf to regulate it?

Mr. KRENCH. Not until its goods become a part of interstate commerce and not if its goods are beyond fault—I used the word "indirectly" when perhaps I should have said "incidentally" engaged in interstate commerce a moment ago. I do not think that Congress can enter the domain of a State and put its hands on its producing powers. I do not think Congress would have the power to say that no boy of any age should pick cotton in the States or help thrash wheat in the State, or any other purely productive industry in the State. That is the idea I have, and I have reached it after a careful investigation, though I must admit I had not read the commodities case since about the time it was decided; but a full reading of the white slave cases and the lottery case, with the limitations that the court says is upon the power of Congress, and a consideration of the clause in the fifth amendment to which I have repeatedly referred, will lead to that conclusion, I think. Congress has power to regulate commerce and its instrumentalities directly engaged therein. It has no power to regulate those who ship goods in interstate commerce or who use its instrumentalities incidentally in their business or pleasure.

My argument has been made against the principle of prohibition, as this bill prohibits goods, just as they were prohibited in cases that I have cited. I have not undertaken to discuss how far Congress can undertake to regulate any business that is legitimate, because it has power to regulate legitimate commerce, but not in the manner that takes the form of prohibition.

Senator CUMMINS. I have been very much interested in your argument, and I realize, of course, that in making the Constitution cover this bill, Congress has gone very far toward regulating and absorbing the affairs of the States, and has gone far toward absorbing the police powers of the States.

Mr. KRENCH. I think it would be well, for any Senator who has the time to do it, to read Watson on the Constitution, and especially the pages I have cited here. It is very full, and seems to be a very fair discussion of this proposition, and it relates to this identical question that is involved here.

Senator BRANDEGEE. I would like to ask you one question. If I understand your claim it is this, that the only constitutional authority under which this legislation can be sustained is the commerce clause of the Constitution?

Mr. KRENCH. Yes, sir; that is my opinion.

Senator BRANDEGEE. Which authorizes Congress to regulate commerce among the several States. Would you claim that this bill, when it prohibits the producer from shipping his product in another State, unless the labor which enters into the production of the product shall conform to the standard set up by Congress, is not a legitimate attempt to regulate commerce among the States? The purpose of that provision is to regulate the hours of labor among the children in the several States.

Mr. KRENCH. That is my position; that when Congress undertakes to forbid the transportation of goods, unless certain conditions shall have been complied with it is destroying their value. When you forbid a man to sell a thing that he is making, you are destroying the value of his property without process of law, as in this bill.

Senator POINDEXTER. You have a right to do that, to destroy and to take property, supposing that Congress has jurisdiction over the matter. The States have the right to condemn property and to destroy it and to exercise their police power?

Mr. KITCHIN. They have.

Senator POINDEXTER. And Congress would have the same power of fulfilling its responsibilities, would it not?

Mr. KITCHIN. I do not think this would come under any police power or under the power of eminent domain. When Congress exercises the power of eminent domain it pays for the property taken; but when it takes property because it is illegal or used against the Government it confiscates it. I do not think that Congress has the power to confiscate property on account of the method of its manufacture in a State unless such manufacture is illegal. That is the position I take upon that. I will add that if a citizen has the right to ship in interstate commerce a sound, pure, useful, and blameless article for a legal purpose and this right is guaranteed by the fifth amendment, then there can be no such thing as a reasonable prohibition of that right without due process of law. Neither the United States nor any State nor any citizen or body of citizens can constitutionally deprive him of his guaranteed right on the ground that it is reasonable to do it. Congress can not levy a tax upon exports, though it be reasonable.

The sovereignty of this Government is in the people. They have the power to give Congress more power. Congress has only the power granted in the Constitution. To hold that Congress can do what is reasonable under circumstances appearing to it is to ignore the Constitution and to assume that Congress is supreme, for certainly it will not be assumed that Congress will ever do an unreasonable thing under the apparent circumstances. When a citizen is deprived of a guaranteed right by Congress on the ground that it is reasonable to so deprive him, it has a flavor of mob spirit, for no man was ever deprived of his life by a mob who did not think that it was reasonable to lynch under the circumstances. In other words, it is the spirit of an unrestrained acting majority. Constitutions are made to protect minorities. Majorities usually are able to take care of themselves.

I thank you gentlemen very much.

Senator CLAPP. I move that the committee take a recess until to-morrow at 3 o'clock p. m.

(Thereupon the committee took a recess until to-morrow, Thursday, February 17, 1916, at 3 o'clock p. m.)

INTERSTATE COMMERCE IN PRODUCTS OF CHILD LABOR.

THURSDAY, FEBRUARY 17, 1916.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The committee reassembled at 3 o'clock p. m., pursuant to the taking of recess.

Present: Senators Pomerene (presiding), Smith, Robinson, Clapp, Cummins, Oliver, Lippett, La Follette, and Poindexter.

The ACTING CHAIRMAN. You may proceed, Professor.

STATEMENT OF PROF. THOMAS I. PARKINSON, OF COLUMBIA UNIVERSITY.

Prof. PARKINSON. The Keating bill as it passed the House differs somewhat from Senator Owen's bill, which was introduced in the Senate. I understand Senator Owen intends to substitute the bill as passed by the House for his original bill, if he has not already done so. I want to summarize briefly the provisions of that bill.

The ACTING CHAIRMAN. That is the Keating bill?

Prof. PARKINSON. That is the Keating bill as it passed the House. It provides that no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate commerce the products of any mine, quarry, or factory which are the product in whole or in part of the labor of children, either under a specified age or beyond specified periods. Then it provides that proof of the employment of children in a mine or a factory within 60 days prior to the shipment of the products of the mine or factory, shall be prima facie evidence that those products were the products in whole or in part of the labor of children. The bill authorizes a board consisting of the Attorney General, the Secretary of Commerce, and the Secretary of Labor to make detailed rules for carrying out its purposes. After providing that for the first offense the penalty shall be a fine of not more than $200 and for subsequent offenses the penalty shall be a fine of not more than $1,000 or less than $100 or imprisonment for three months, or both fine and imprisonment, the bill declares that the dealer is not to be subject to the penalty if he can show a guaranty by the producer or manufacturer that the products shipped by the dealer were not produced in whole or in part by the labor of children. That, generally, is a summary of the provisions of the bill.

The constitutionality of the bill to which I propose to confine my remarks depends, as Gov. Kitchin said yesterday, on the interpretation of the power of Congress over commerce under the commerce clause of the Constitution, and any other sections of the Constitition which affect the power delegated in the commerce clause. I accept unqualifiedly Gov. Kitchin's emphatic statement that the power of Congress over commerce is complete, is plenary, except in so far as it is limited by some other provision of the Constitution. I accept his statement that the Supreme Court has frequently recognized the absolute power of Congress to prohibit importations in foreign commerce. I wish to call attention at this point to the fact that Congress has the power absolutely to prohibit importations in foreign commerce merely to ask, Where did Congress get that power? It has no power except powers delegated by the Federal Constitution. It has no power over commerce, foreign, interstate, or with the Indian tribes, except the power which was delegated to it under the clause which said, "power to regulate commerce with foreign nations, between the States, and with the Indian tribes," and if it be admitted that these words "regulate foreign commerce" include absolute and arbitrary power to prohibit foreign commerce I want at least to call attention to the importance of that admission when we come to determine what is the meaning of the phrase "regulate interstate commerce." It is the same word in the same clause, and there is absolutely nothing to indicate that "regulate foreign commerce" has any other meaning than to regulate interstate commerce in so far as prohibition is included in regulation.

But for the purpose of making clear the argument which I want to present in favor of the constitutionality of this proposed regulation of interstate commerce, by preventing the shipments of the products of child labor, I want to suggest that the problem is not only capable of division into two general parts, but it requires that division, if we are to keep the precedents and our own consideration clear of confusion. And those general parts are these:

First. What is the power of the Federal Government over commerce as distinguished from the power of the State government over commerce?

What are the respective jurisdictions of the Federal Government and the State governments over commerce? How far does the Federal power go? What are its limits, and where does the State power begin?

That is one question. That is the question between the Federal Government and the State governments, and that question depends upon the meaning of the commerce clause and the reserved powers clause.

The second general question is, what are the respective rights and powers of the Federal Government and the individual, not the State. That is the question which arises under the fifth amendment to the Constitution. The question there is how far can the individual, not the State, say to Congress "you can not exercise even your express powers in such a manner as to deprive me of my right to life, liberty, or property without due process to law."

It only serves to confuse the issue if we mix up the question of the relative jurisdiction of Federal and State governments over commerce

with the right of the individual to assert against the power of Congress his right to due process.

The fifth amendment can not become operative or important until we first decide that the proposed power is within the Federal jurisdiction. And if we decide that, we know perfectly well that it is beyond the State jurisdiction and no amount of argument directed to the question of the respective jurisdiction of State and Nation, to the balance of power between State and Nation, can then help us. Therefore I propose to direct my remarks, in the first instance, to the question whether this bill regulates interstate commerce, whether it is within the Federal jurisdiction rather than within the jurisdiction of the States over commerce, and thereafter to discuss the effect of the fifth amendment.

The first general proposition to which I want to direct your attention is this, that the power of Congress to regulate interstate commerce as stated in the commerce clause of the Federal Constitution, includes power to prohibit absolutely the shipment or transportation in interstate commerce of specified persons or property. That the Federal Constitution gave to Congress the power to prohibit interstate commerce in specified persons or things when it authorized regulation of that commerce, is indicated in the first place by general theories of construction.

I said a moment ago that the only clauses in the Federal Constitution which affect this question were the commerce clause and the reserved powers clause and the fifth amendment; but, as a matter of fact, some little help in the interpretation of the commerce clause can be had from that provision of the Constitution, Article I, section 9, which says:

> That migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808.

I refer to that clause merely for the purpose of deriving any suggestion which it may contain for the solution of the question as to what was meant by the Federal Constitution when it authorized regulation of interstate commerce. Why except from the powers of the Federal Government this prohibition of the migration between States unless the power to regulate commerce included the power to prohibit that migration? There was no power given to the Federal Government to prohibit such migration unless it was given under the commerce clause.

Moreover again turning our attention to general theories of interpretation it is a well-known fact that prior to the adoption of the Federal Constitution the States possessed this power to prohibit commerce. It is a well known fact that that power and its exercise was the principal reason for the framing and adoption of the Federal Constitution, and when the States surrendered the power to prohibit commerce across State lines, the power did not vanish into thin air, it did not cease to exist, because the only thing that affected that power which the States had held and exercised was the grant by those States to the Federal Government of the power to regulate commerce. That power was thereby transferred to the Federal Government.

I say from both these general considerations we derive fair arguments in support of an interpretation of the commerce clause, which

includes within the term "regulate commerce" the power to prohibit commerce in specified persons or things.

But we do not need to depend upon these general theories of interpretation, sound though I think they are. We have precedents not only in the supreme court decisions but in the practice of Congress which support the power of Congress to prohibit interstate commerce in specified persons or things, and I think that it would be worth while to mention the instances in which Congress has exercised the power to prohibit interstate commerce.

Congress has prohibited transportation of lottery tickets or advertising matter relating to lotteries.

Congress has prohibited the transportation of obscene literature and articles designed for immoral and indecent use.

Congress has prohibited transportation of adulterated or misbranded foods and drugs.

Congress has prohibited the transportation of women from one State to another for immoral purposes.

Congress has prohibited the transportation in interstate commerce of a commodity in which the carrier thereof has a legal interest.

Congress has prohibited, practically, the transportation of intoxicating liquors in interstate commerce.

Congress has prohibited the shipment or transportation of meats which have not been inspected.

Congress has prohibited the shipment or transportation of cattle in interstate commerce except under regulations established by the the Secretary of Agriculture.

Congress has prohibited the shipment or transportation in interstate commerce of unmarked, imported nursery stock, or quarantined nursery stock.

Congress has prohibited the shipment or transportation of game in interstate commerce.

Congress has prohibited the transportation of renovated butter in interstate commerce.

Congress has prohibited the shipment in interstate commerce of specified viruses, serums, etc., and has prohibited interstate transportation of prize-fight picture films.

These instances in which Congress has exercised the power to prohibit interstate commerce, some of which have been passed upon and supported by the Supreme Court, indicate to me beyond all doubt that Congress does possess a power to prohibit interstate commerce. These precedents establish that "prohibition" is included in "regulation," and that is the point I wish to make.

Right here I should like to call special attention to that prohibition of transportation of game in interstate commerce. Section 242 of the Criminal Code prohibits the shipment or transportation in interstate commerce of dead bodies or parts thereof of wild animals or birds killed or shipped in violation of the laws of a State.

The ACTING CHAIRMAN. Has that section been before the courts?

Prof. PARKINSON. That section has not been passed upon by the courts.

Mr. KITCHIN. Is it not before the court now?

Prof. PARKINSON. It has not been passed upon.

Mr. KITCHIN. No; but I think it is in the courts. It is my understanding that it—the migratory-bird act—is before the courts.

Senator ROBINSON. Yes; the case involving the constitutionality of the so-called migratory-bird law is pending now.

Prof. PARKINSON. This is not the migratory-bird law, it is known as the Lacey Game Act.

Mr. KITCHIN. I thought that was the one you referred to.

Prof. PARKINSON. The second point I want to discuss is this: The power of Congress over interstate commerce may be exercised in the interest of the public morals, public health, and public welfare, as well as in the interest of commerce and its instrumentalities.

The Supreme Court might have ruled that the congressional power over commerce was confined to the regulation of interstate commerce or its instrumentalities for the benefit of interstate commerce or its instrumentalities, and for such benefit alone; but the Supreme Court has seen fit to decree not only by absolute decision but by frequent expressions in the course of its opinions that the Federal Constitution gave to Congress the power to regulate interstate commerce for the benefit of the general welfare, the health, the safety of the people of the United States. They have held that Congress possesses what has been frequently called a police power under the commerce clause, but it does not help to call it a police power. What the court means is that the power granted to the Federal Government may be exercised by Congress for the general good of the country. Congress is not confined in the exercise of its express powers to the accomplishment of any restricted purpose, but may use those powers for the Nation's good.

Congress has exercised its power to regulate commerce by prohibiting the transportation of lottery tickets. Lottery tickets did no harm to commerce; no harm to its instrumentalities. They were not like the loose hay that Gov. Kitchin referred to yesterday. The prohibition of their transportation in interstate commerce was in the interest of the public morals; was what the Supreme Court has called a police regulation under the commerce clause; a police regulation because it is analogous to that power which the States exercise when they regulate in the interest of the public health and the public welfare and the public safety, despite the guaranty of due process to the individual. That is the only meaning of police power under the commerce clause; a regulation in the interest of the public health and safety, a use of the commerce clause for a purpose other than the immediate benefit of commerce and its instrumentalities.

Senator CUMMINS. Would it interrupt you if I asked a question?

Prof. PARKINSON. No, Senator; I shall be very glad to respond to questions.

Senator CUMMINS. Do you mean that under that clause we can do anything, assuming that it is a regulation for any purpose that we might think wise? I think you said that Congress might prohibit interstate commerce for any purpose that Congress might deem best. Do you think that we could prohibit commerce with a State, with every State that allows women to vote?

Prof. PARKINSON. So far as the commerce clause alone is concerned, and so far as the States have any right to object that the power has not been delegated to the Federal nation, yes; but I am coming in a moment to the other question as to how far this full power of Congress is affected by the fifth amendment.

Senator CUMMINS. Yes. I have wanted to know whether, in your opinion, there must not be something else than the mere power under the commerce clause of the Constitution. I will give you another illustration. Suppose this bill, instead of being applicable to children, to child labor, was applicable to the product of negro labor, would it be Constitutional to the same extent?

Prof. PARKINSON. Senator, the truth of the matter is I did not want to answer that question right here, but I shall go ahead and indicate now how I shall answer it. The Congress has not arbitrary power over interstate commerce, and the reason that Congress has not an arbitrary power over interstate commerce is the fifth amendment. In other words, I, as an individual resident in the State of New York, have a right to find an interstate market for my goods, except to the extent that Congress may reasonably regulate that right.

Senator CUMMINS. You had not used the word "reasonable" before, and I did not know.

Prof. PARKINSON. Because, Senator, I am trying to divide this question into two: First, what are the respective rights of State and Nation? I want to get rid of the question of how far the Nation may be said to be trespassing upon State rights, and then take up the question of how far the individual has the right to assert the guaranty of due process.

Senator BRANDEGEE. In which case did the Supreme Court decide that the National Government had the national police power?

Prof. PARKINSON. The Supreme Court has in a number of cases asserted ——

Senator BRANDEGEE. But the subject of regulation and the means that Congress took to exercise its power under the commerce clause might be in the nature of police regulations, but never, so far as I know, has it held that the Nation had a police power.

Prof. PARKINSON. I have said a moment ago, Senator, it seems of no importance to me to say that Congress has or has not a police power.

Senator BRANDEGEE. I only suggested it because I understood you to say you were trying to get rid first of the question whether the police power was in the States.

Prof. PARKINSON. No; the term "police power" is of no importance to me. It simply means that the States have certain powers which they may exercise despite the due process laws. It means, as applied to the Federal Government, that the Federal Government may exercise its express powers for purposes other than the particular purpose indicated by the clause itself; that the Federal Government may exercise its commerce power for a purpose beyond the protection of interstate commerce and its instrumentalities.

Senator BRANDEGEE. As I understood you, wherever Congress thinks it is for the public welfare, then it can legislate to prohibit commerce in legitimate articles between the States?

Prof. PARKINSON. I have not taken up that question yet.

Senator BRANDEGEE. I thought you had stated that.

Prof. PARKINSON. I had stated only that as between the respective jurisdictions of the Nation and the States, the Federal Government has the power to regulate, and this includes the power to prohibit, not

only for the protection of interstate commerce and its instrumentalities, but for the protection of other interests which Congress seeks protect. Now, what those other interests are, and what limitation there is on the Federal power by reason of the fifth amendment I have not yet taken up.

Senator BRANDEGEE. I thought you stated it broadly that whereever they thought it was for the public benefit they could prohibit commerce.

Prof. PARKINSON. On the contrary, I might say right now that all the argument yesterday directed to the question of arbitrary power in Congress to prohibit interstate commerce has no application to the constitutionality of this pending bill. We do not assert any arbitrary power in Congress to prohibit any and all interstate commerce. It is not necessary to assert any such arbitrary power in order to support the constitutionality of this bill. We do not believe Congress has any such arbitrary power. And there is absolutely no reason, in considering the constitutionality of this bill, to take into consideration whether or not Congress has an arbitrary power over interstate commerce.

The Supreme Court in the Lottery case said Congress had not an arbitrary power. We believe that it has not an arbitrary power; that its regulation must be reasonable. The only thing we want to insist on now is that the reason Congress has not an arbitrary power is not found in the commerce clause, is not found in any other clause which relates to the relation of the Federal Government to the States, but it is found in the fifth amendment, which relates only to the rights of the individual against the Federal Government.

If Congress has the power to regulate interstate commerce and the power to regulate interstate commerce includes the power to prohibit specified commerce, the next point which I want to discuss is that whatever its effect, a congressional regulation of interstate commerce is never a violation of the reserved rights of the States.

Granting that you have a regulation of interstate commerce, it can never invade the reserved rights of the States. Article 10 of the amendment to the Constitution provides:

> The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States, respectively, or to the people.

Now, there can be no question of reserved rights in the States until you have first determined the limits of the Federal power.

What is the limit of the Federal power over commerce? Once you fix that limit you know that beyond that the powers are reserved to the States, but up to that point this reserved power clause is not effective and has no application. Your first point is to determine what is the extent of the power over interstate commerce; what is the furthermost limit of the jurisdiction of the Federal Government under the commerce clause, and beyond that this reserved-power clause takes effect, but not until that point.

In the Minnesota Rate Cases Mr. Justice Hughes said:

> The completely internal commerce of the State then may be considered as reserved for the State itself. This reservation to the States manifestly is only of that authority which is consistent with and not opposed to the grant to Congress. There is no room in our scheme of government for the assertion of State power in hostility to the authorized exercise of Federal power. The authority of Congress extends to every part of

interstate commerce and to every instrumentality or agency by which it is carried on, and the full control by Congress of the subjects committed to its regulation is not to be denied or thwarted by the commingling of interstate and intrastate operations. This is not to say that the nation may deal with internal commerce of the State as such, but that the execution by Congress of its constitutional power to regulate interstate commerce is not limited by the fact that interstate transactions have become so interwoven therewith that the effective government of the former incidentally controls the latter. This conclusion necessarily results from a supremacy of the national power within its appointed sphere.

In other words, whatever the mingling of intrastate and interstate transactions the question is still, What are the limitations of interstate commerce under the commerce clause of the Constitution, and up to that line Congress may regulate whatever the incidental effect on intrastate operations.

Now, I do not think it will be denied for a moment that a regulation by Congress that certain things shall not be shipped in interstate commerce is a regulation of interstate commerce. Regulation includes prohibition. Congress says these things shall stay out of interstate commerce. There can be no doubt that that is a regulation of interstate commerce under the decisions of the Supreme Court and under the practice established by Congress, therefore the only difficult point involved in the constitutionality of this pending legislation is, What is the effect on the commerce power of Congress of the fifth amendment? What is the effect of the provision that no individual shall be deprived of his right to life, liberty, or property without due process of law in the exercise by Congress of any of its powers?

The ACTING CHAIRMAN. Are you quite sure that your citation of the rate cases sustain your position? It seems to me there is this distinction to be drawn. When the Federal Congress assumes to exercise its powers with relation to commerce, then it supersedes any power that the State legislatures might have on that subject prior to this particular time. That relates specifically and directly to commerce. Now, under the bill under consideration it seems to me that this distinction could be made. I am not clear about it, but this is an attempt not to regulate commerce so much as it is to regulate the manufacture of the articles of commerce. I do not know that the distinction is sound, but it occurs to me.

Prof. PARKINSON. You will see in a moment that I cited the opinion in the rate cases merely as indicating that the incidental effect upon intrastate commerce or upon intrastate transactions or operations, as Justice Hughes says——

The ACTING CHAIRMAN. As relating to commerce there is no question about that under that decision.

Prof. PARKINSON. The incidental effects do not affect the validity of the congressional regulation. Now, the regulation in this case is of articles to be shipped in interstate commerce. You very properly say it has the incidental effect of legislating as to the conditions under which these articles may be manufactured, but that effect is incidental. As Mr. Justice Hughes has said, not only in the rate case, but in a recent address before the New York Bar Association:

Regulations required in the exercise of a judgment committed to Congress for the exercise of interstate commerce can not be made nugatory by the mere commingling of interstate and intrastate transactions.

Senator BRANDEGEE. You think the real purpose of this bill is purely to regulate commerce and that the child-labor part of it is merely incidental?

Prof. PARKINSON. I think that is not the point of distinction between a constitutional and an unconstitutional bill.

Senator BRANDEGEE. Whether it is or not, I do not want to press you about it. Are we really here to regulate commerce in cotton between the States, for instance, or to regulate the hours of labor of children?

Prof. PARKINSON. The purpose of the bill is to withdraw the instrumentalities and facilities of interstate commerce from the employer or manufacturer who makes use of child labor in the manufacture of his products.

Senator BRANDEGEE. I understand it prohibits commerce in cotton, for instance, if children work on it longer than certain hours; but is it the purpose to prohibit commerce or is it the purpose to prohibit the employment of children under a certain age?

Prof. PARKINSON. The purpose is to prohibit the commerce in the interest of withdrawing Federal agencies from the continuance of a profitable market for the products of child labor, and I do not hesitate for a minute to assert that the underlying purpose of this legislation is to stamp out child labor.

Senator BRANDEGEE. The means employed is the prohibition of commerce in the products.

Prof. PARKINSON. The means employed is the exercise by Congress of a power vested in it, which the Supreme Court of the United States has held was vested in it, to be exercised among other purposes for the general welfare of the country.

Senator CUMMINS. That is, the legislation in regard to lotteries; the purpose was to suppress lotteries; that was the real purpose and the means employed to exclude the tickets and all of the literature of the subject from interstate commerce.

Senator BRANDEGEE. I think he has answered very frankly.

Senator CUMMINS. I suppose the two things are exactly alike, provided child labor and lottery tickets are alike.

Prof. PARKINSON. Now, I want to take up what I have said is the second general question involved in this subject, namely, the effect of the fifth amendment to the Federal Constitution. Under it the individual is entitled to say to Congress and the Supreme Court will uphold his position, "You can not deprive me of my right of property or my right of personal liberty without due process of law."

What is due process of law? The guaranty of due process of law, whatever it may have been held to mean in particular cases in the past, whatever it may ultimately be held to mean for all general cases which may arise under it in the future, certainly does not mean that the Federal Government or the State governments may not affect rights of property or of liberty in the interest of public welfare. It does not secure the continuance of principles which have endured for a long time. In other words, it is not true that whatever has become established law is protected by the guaranty of due process. What it does is to protect the individual against arbitrary action of Government, to secure him against unreasonable confiscatory interference with his property or his liberty. We have not had many cases

interpreting the meaning and effect of due process under the fifth amendment. The fifth amendment guarantees the individual against Federal deprivation of his property or liberty without due process. The fourteenth amendment guarantees the individual against State deprivation of life, liberty, or property without due process. Those two guaranties, the one in the fifth and the other in the fourth amendments, appear in the same group in the Constitution, one relating to the Federal Government and the other relating to the State governments, and they both protect the individual against deprivation without due process. We have therefore the benefit of the decisions under the fourteenth amendment in attempting to arrive at a decision as to what is the meaning of the fifth amendment.

Under the fourteenth amendment the Supreme Court of the United States and the State courts have upheld regulatory legislation which interfered with private property, which interfered with personal liberty, wherever that interference was reasonably required by conditions in the community affecting the public safety, the public health, or the public welfare. Wherever it could be reasonably shown to the Supreme Court that the regulation, though an interference with private property or with personal liberty, was reasonably justified by conditions in the community which affected the public health, safety, or welfare, then the regulation, though it interfered with property or liberty, has been held not to be a denial of due process.

The test is a vague and indefinite one. You can not lay down any rule which will separate the reasonable from the unreasonable, and that, in the last analysis, is the test. The legislation which is a reasonable regulation in the interest of the general welfare is constitutional. The legislation which is an unreasonable interference with private property or personal liberty is unconstitutional. There is no more definite test. We can only be guided by the signposts which have been established by the judicial decisions of the past and await future decisions to make the line more definite.

The Supreme Court has said, in discussing this question, that there is no hard and fast line which separates the constitutional from the unconstitutional in this field of the police power and the due-process clause. The line tends to straighten as decision after decision establishes certain points, but it would be a foolish man who would undertake to lay down any general rule to determine whether cases which may be supposed to arise in the future would be constitutional or unconstitutional.

Gov. Kitchin asks, Would it be constitutional to prohibit the shipment of sound wheat from Minnesota to Wisconsin? Mr. Justice Harlan said, in the Lottery case, that we should not attempt to decide such questions until they come before us. We can not decide them until they come before us. Whatever we may think to the contrary, the Supreme Court of the United States has established the rule, which must be our guide in determining the constitutionality or unconstitutionality of legislation under the due-process clause and it is nothing more than this: What is reasonable in view of the conditions is constitutional and what is unreasonable in view of the conditions is unconstitutional; and every case must stand upon its own feet, must stand upon the conditions which exist at the time Congress passes the legislation, or must stand upon the conditions

which exist at the time the State legislatures pass the legislation. The test is reasonableness and nothing more.

That being the general effect of the due-process clause in the fifth amendment, the next question is, and this is the vital question in this case: Is a regulation of interstate commerce which prohibits the shipment of the products of child labor in interstate commerce a reasonable regulation of the individual's right to find an interstate market for his goods?

We know that the Supreme Court of the United States has upheld as reasonable, under the fourteenth amendment, the child-labor laws of the States. We know, in other words, that the Supreme Court of the United States has said that a regulation of the right of the child to work and a regulation of the right of the employer to have children work under a certain age is constitutional. We know that State legislation setting up standards of child labor similar to those in this bill is constitutional; that it does not deprive anybody of rights of property or of liberty without due process. That means that there are conditions existing in the community which justify this interference with personal liberty in private property. The right of the child to work is subject to this right of the State government in its jurisdiction and the Federal Government within its jurisdiction to say that you shall not work if your work involves detriment to the public health, safety, or general welfare.

In the Coppage case, for example, which was referred to yesterday, where the Supreme Court of the United States held unconstitutional the Kansas statute prohibiting the discharges of men because they belonged to trade-unions, the court referred to the previous decision in the Adair case, holding a similar act of Congress unconstitutional, and it said that the reason for these decisions was that such regulations had been generally held throughout the country as unwarrantable, unreasonable interferences with rights of liberty and property. In other words, they referred to the fact that State statutes to the same effect had been generally considered as arbitrary and unreasonable, and on that ground they justified their decision that such statutes were unconstitutional.

The fundamental reason underlying those decisions was that there had been no conditions shown in the community, no evil conditions connected with the public safety, the public health, or the public welfare which justified that kind of regulation. It does not mean that in the future we may not have similar statutes held constitutional. Take, for example, the workman's compensation act passed in New York some years ago. When it first came before the court of appeals of New York State, it was held unconstitutional as an unreasonable deprivation of property without due process of law. It was so held under the State constitution which contains a due process clause. We amended the State constitution and expressly authorized the legislature to enact a workman's compensation act. We could not amend the fourteenth amendment. The fourteenth amendment still required the States not to deprive any individual of property without due process of law, and when our second workman's compensation act came before the court of appeals, and it was contended that if the first act had been unconstitutional as a deprivation of property without due process under the State constitution, then the second act was unconstitutional, as a deprivation of property

without due process contrary to the fourteenth amendment. The question was precisely the same and the court of appeals simply departed from its former decision on the ground that it felt impressed with the fact that it had been established that there were conditions which justified this interference with private property, this regulation of private property, in the interest of the public good.

Senator BRANDEGEE. But they would not have held that unless you had amended the constitution specifically authorizing the new reso ution?

Prof. PARKINSON. But, Senator, the second case arose under the fourteenth amendment to the Federal Constitution.

Senator BRANDEGEE. But the State constitution had been amended?

Prof. PARKINSON. The Federal Constitution had not been amended. The first case was decided under the due process clause of the State constitution and the second case was decided under the due process clause of the Federal Constitution.

Senator BRANDEGEE. Yes; I understand.

Prof. PARKINSON. The question, what is due process, remained precisely the same as it had been in the first place.

So I say, of all these cases the question is one of reasonableness, reasonable regulation in the interest of public welfare.

After all, the principal point involved in the constitutionality of the pending bill is this: Are the Lottery case and the White Slave case precedents supporting the constitutionality of this child-labor bill? If they are we do not need to go any further.

In the Lottery case the Supreme Court upheld a prohibition of the shipment of lottery tickets and lottery literature in the interest of protecting the public morals and the public welfare.

In the Hoke case the Supreme Court upheld the act of Congress prohibiting the transportation of women in interstate commerce for immoral purposes, and they upheld it on the ground that it was a prohibition of interstate commerce in the interest of public welfare.

The only suggestion that I have ever heard which would tend to indicate that these cases are not absolute precedents in support of the constitutionality of this proposed legislation was that advanced by Gov. Kitchin yesterday, and which is generally known and referred to as the distinction between protection of the consumer and protection of the producer. If that Lottery case and that White Slave case are not to be precedents in support of the constitutionality of this child-labor bill, it is because of that alleged distinction between protection of the consumer and protection of the producer. It is true that in the Lottery case Congress was protecting the consumer at the end of the interstate journey by preventing the lottery tickets reaching him. It is true in this case that Congress would be protecting small children against employment in the production of goods before they started on the interstate journey.

That, gentlemen, is the crux of this question. Is there any difference between a regulation for the protection of the consumer and a regulation for the protection of the producer?

Think for a moment what that lottery case really means. Congress prohibited transportation in interstate commerce of lottery literature and lottery tickets, and the Supreme Court upheld it. Do you think for a moment that the Supreme Court in upholding that lottery act

was influenced by the fact that it protected a few individuals who might have purchased lottery tickets to their moral detriment at the end of a journey in interstate commerce? Do you think that the Supreme Court was influenced by the fact that a few individuals might become gamblers or indulge their gambling instincts? Do you suppose the Supreme Court was trying merely to protect those individuals against themselves, or against the temptation to gamble? Not at all. The Supreme Court upheld that legislation because it established a standard of morality, an ideal of public welfare which these gambling transactions violated. The Supreme Court upheld that legislation, not for the protection of the individuals who bought the lottery tickets, but for the protection of the public welfare and the public morals. It was the relationship of the effect of those lottery tickets on the individuals' morals and the public morals that justified Congress in enacting that legislation.

That is what government exists for, to establish high ideals of morals, high standards for the public welfare and to compel obedience to them, and this legislation was upheld because it prohibited violations by individuals of those established standards.

Take the decision in the Hoke case. Do you think for a moment that the Supreme Court of the United States upheld that prohibition of interstate commerce in the interest of protecting the few individuals who might otherwise be affected by transactions at the end of a journey? Government never intervened merely for the protection of those few individuals. Again, it was a standard of public morals and of public welfare for the establishment and maintenance of which Congress exercised its great powers; and from this point of view what does it matter whether the conditions which violate a standard of public welfare, of public health, of public safety, or of public morals which Congress says should be maintained—what does it matter whether those violations come at the beginning of a journey or at its end? Congress has this power under the commerce clause to use for the public good, and if it finds conditions in the country which it believes ought to be regulated, which it believes call for the establishment of a standard and its protection, it matters not whether the injury may affect a group of persons here or a group of persons there, the important question is, "Do the transactions or conditions here or there affect the public safety, the public health, the public morals, or the public welfare?" And if they do, Congress has the power to intervene to prevent them.

I want to read a quotation from the lottery case, in which I have taken the liberty of inserting the words "child labor or its products" in place of "lotteries." Otherwise the quotation is just as it appears in the opinion of Mr. Justice Harlan, except that the italicized words are substituted for words referring to lotteries.

If a State, when considering legislation for the suppression of child labor within its own limits, may properly take into view the evils that inhere *in mining or manufacturing* in that mode why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of *the products of such labor* from one State to another. * * * As a State may, for the purpose of guarding the morals of its own people, forbid all *child labor* within its limits, so Congress, for the purpose of guarding the people of the United States against the widespread pestilence of *child labor* and to protect the commerce which concerns all the States, may prohibit the carrying of *the products of such labor* from one State to another. * * * We should hesitate long before adjudging that an evil of such appalling character, carried on through interstate commerce, can not

be met and crushed by the only power competent to that end. We say competent to that end, because Congress alone has the power to occupy, by legislation, the whole field of interstate commerce. * * * If the carrying of *the products of child labor* from one State to another be interstate commerce, and if Congress is of opinion that an effective regulation for the suppression of the sale of *such products* carried on through such commerce is to make it a criminal offense to cause *such products to be shipped* from one State to another, we know of no authority in the courts to hold that the means thus devised are not appropriate and necessary to protect the country at large against a species of interstate commerce * * * which has grown into disrepute and has become offensive to the entire people of the Nation.

That is the language used by the Supreme Court in upholding the lottery act. I have substituted for "lotteries," "child labor." I have made no other change, and if child labor conditions in this country have become such that though the States interpose to prohibit such labor, this prohibition is ineffective to suppress child labor because users of child labor find a market for their products in interstate commerce, this statement of the Supreme Court applies as well to child labor as it does to lotteries. The States could intervene to prohibit lotteries, but not effectively. States can intervene to prohibit child labor but not effectively. The only power competent to that end, as Mr. Justice Harlan says, is the Federal Government.

Summing up, then, we believe that this power of Congress over commerce includes prohibition; that it includes prohibition in the interest of the general welfare as well as in the interest of the instrumentalities of commerce; that this power is not arbitrary but must be exercised consistently with the fifth amendment, and must not constitute a deprivation of life, liberty, or property without due process of law, but that it may be exercised reasonably to regulate conditions for the protection of the public health, morals, safety, and welfare; and that it does not make any difference whether the individuals who are primarily affected by the regulation happen to be at the one end of the journey in interstate commerce or at the other.

I thank you, gentlemen.

The ACTING CHAIRMAN. Your proposition, in brief, is that it is as detrimental to public morals to produce and sell a lottery ticket as it is to buy and use it.

Prof. PARKINSON. Not quite, Senator, but that the buying and the using by some individuals in the community is a violation of the standard of public morals and public welfare which it is desirable for the Government to maintain. It is not a question whether the one act or the other is more or less immoral, but it is the relationship between the good of the individual and the good of the community, and it is the fact that there is a good of the community at issue which justifies the regulation. In other words, the regulation would never be upheld, whether it was made by the Federal Government or made by the State government, unless it could be shown that the regulation in the interest of some individuals was intimately connected with the good of the general public.

Senator BRANDEGEE. In the lottery case the whole system and its paraphernalia were conceded by everybody to be immoral, the things that were prohibited from transportation were a part of the paraphernalia of the business, and the advertisement of an admittedly illegal business and immoral, although it had been legalized in the States where it existed. Now the thing prohibited by Congress

in this bill is, per se, a perfectly innocuous, legitimate and desirable article. Do you see no difference between those two cases?

Prof. PARKINSON. Lottery tickets were not always regarded as immoral.

Senator BRANDEGEE. No, but at the time of the decision, I mean.

Prof. PARKINSON. I have no doubt there were a number of people then who thought them not immoral.

Senator BRANDEGEE. Assuming that there had not been a consensus of opinion as to the immorality and the court found it was an immoral, and as you say a gambling device, and the whole thing tending to corrupt public morals. Now, child labor of itself is not immoral nor corrupting unless the child is working at too young a period, and it can not be branded as an infamy that a child shall try to earn its living. The whole institution was not immoral. There is nothing immoral about the transportation of cotton, certainly. As I say in the lottery case, the lottery devices themselves were prohibited from being sent to one State from the other. In this case the child labor is not attempted to be regulated, but the product of the labor is barred from commerce and the product of the labor is a perfectly innocent article, and is only a parcel of the labor, if it is a complicated article manufactured in a mill where only a certain number of children are employed. Do you think those two cases are on a perfectly parallel ground so the court would be compelled if it stands by its lottery decision, to sustain the constitutionality of this child-labor act?

Prof. PARKINSON. Senator, the lottery act prohibited the transportation in interstate commerce of the article which enabled the lottery gamblers to carry on their trade. Without that transportation they could not carry on their trade. There was nothing immoral about carrying the lottery tickets across the State line in the mails or in express cars. It was the using of an instrumentality subject to the Federal control for making effective the lottery scheme, the gambling scheme, that was withdrawn, and here we merely withdraw from the man who is producing goods with the labor of young children the instrumentalities under the Federal control by which he seeks to find a market. The lottery gambler when he shipped his tickets in interstate commerce was seeking his market, and that is what the Federal Government withdrew from him, and that is what we seek to withdraw from the user of child labor.

Senator BRANDEGEE. You see no distinction at all between the two?

Prof. PARKINSON. I see no distinction whatever between these two cases so far as the question of withdrawing the Federal instrumentality from the use of those persons who are carrying on practices which are to the detriment of the general welfare.

Now, Senator, I should like to come back to the first part of your question, which involves the question of morals. You, I think, admit that it may be immoral to employ very young children, because I noticed in your question a limitation as to age, therefore it is a matter of degree as to where the point is to be established at which evil employment becomes immoral.

Senator BRANDEGEE. You think so, but as I follow your very ingenious and entertaining argument, it occurs to me if it is practically so that under the commerce clause of the Constitution Congress can

prohibit in commerce among the States all articles that are not produced in such ways and surrounded by such influences as in the judgment of Congress may be for the best interest of the people at large, what is there left for the States to do about regulating their own affairs?

Prof. PARKINSON. Senator, that again brings up the question, What is to be the general application of this rule in the future? It is impossible to say. We can only discuss the particular case that is now before us. There is an element of public good and of public morals in this case, and therefore Congress can reach out to regulate——

Senator BRANDEGEE. I agree to that, and I think there is no man in Congress, or if there is he ought not to be, who would not like to alleviate any wrong conditions that exist in the country. But when I asked what is going to become of the powers of the States to manage their own local affairs if it is so that the General Government, whenever in the opinion of Congress the public welfare demands, may, through the commerce clause, compel all the States to act as the General Government wants them to, irrespective of the way they want to act themselves, what becomes of local self-government in this country?

Prof. PARKINSON. In the first place, Senator, the power of Congress will always be subject to this general rule, that there must be conditions which justify the regulation in the interest of the public health, morals, safety, and welfare. In the second place, the States have transferred this power to Congress, and it is not only a power, but it is the duty of Congress to use the power in the interest of national safety, welfare, and morals. Take, for example, the right of a State to deprive any person of life, liberty, or property without due process of law. A few States had the due process provision in their constitutions prior to the adoption of the fourteenth amendment. The adoption of the fourteenth amendment was merely a compulsion on all the States not to exercise any of their powers to deprive any person of life, liberty, or property without due process of law. And as the power of the Federal Government advances by its proper development, it will gradually extend to fields which it has not hitherto entered, and it is true that it will compel States to do in the interest of the welfare of the Nation what perhaps one or two States are now unwilling to do. This is not the first time that Congress has been asked to reach out and regulate local matters, and it will not establish——

Senator BRANDEGEE. It will not be the last either.

Senator CLAPP. I hope not.

Prof. PARKINSON. And, Senator, it does not matter in the slightest what this committee or what this Congress may do with this bill so far as future requests and future demands for the extension of the Federal power are concerned. You can not hold up that demand by any action which you may take on this bill. You were told yesterday that if you recommended or passed this bill you would be flooded with demands to extend the Federal power. You will be flooded with those demands whatever you do with this bill, and you will be flooded with them until the limitations of the congressional power are more definitely prescribed by the Supreme Court.

Senator BRANDEGEE. I think that is very likely.

The ACTING CHAIRMAN. Let me ask you this question, Professor: I assume that the State governments would have the right to adopt certain sanitary regulations with respect to the building of factories, with reference to light, to heat, and pertaining generally to the comforts of the employees. Now assuming that to be so, and I do not think there is any doubt about it, do you believe that the Federal Government under this commerce clause of the Constitution would have the right to adopt those same regulations with respect to factories in which goods were made for sale and transportation in interstate commerce?

Prof. PARKINSON. Senator, there is where the judgment of Congress becomes important. That is for the Congress to say. If conditions at the time that it passes such legislation justify it, if in other words—here is the general test, and you can not make it more specific—if you should pass that regulation now I think the average man would be shocked by it, and if the average man would be shocked by it the chances are that the Supreme Court of the United States would be shocked by it. And the question whether that kind of legislation is going to be constitutional or unconstitutional is one of conditions existing at the time that the Congress steps in to act, and the judgment of Congress, unless it be arbitrary, is going to be very largely adopted by the Supreme Court. The Supreme Court has said in all of these cases that it will only intervene to hold unconstitutional such legislation where the legislative body has obviously acted arbitrarily and with the result of confiscation. In other words, unreasonably. You can not—no one can undertake to answer such questions without all of the facts and the conditions before him, because of necessity the facts and conditions are the necessary basis for judgment. And I say again the only answer I can make to your question is that if the conditions in the country are such that a regulation to that effect can reasonably be interpreted to be beneficial to the public health or welfare, it will not shock the average man, just as this legislation will not shock the average man. The average man is ready for this child-labor legislation, is ready for the suppression of child labor and is ready for the use of the Federal power to accomplish it effectively.

The ACTING CHAIRMAN. Let me ask you another question. You speak of the conditions as controlling, and to some extent that is true. We have possession of the Philippine Islands and we legislate with respect to the Philippine Islands. It is said that the youths in the Philippine Islands mature there two or three years earlier than they do in this climate. Suppose we were to assume that children should not be permitted to work in the factories in this country under 16 years of age, but that the children in the Philippine Islands are as mature at 13 or 14 years as our children here are at 16. Would the conditions sustain legislation in both localities in the same way?

Prof. PARKINSON. It would depend upon whether the different conditions were such that a fair regulation as to the one would be felt to be a shockingly unfair regulation as to the other. Whether that is so, I do not know.

The ACTING CHAIRMAN. That is, it might be constitutional with reference to the States here but unconstitutional with reference to the Philippines.

Prof. PARKINSON. I think a child-labor bill enacted for the United States might be constitutional, and one enacted for the Philippines might be unconstitutional.

Senator BRANDEGEE. In other words, all these things are constitutional or unconstitutional according as the Supreme Court says.

Prof. PARKINSON. There is absolutely no doubt about the fact that where the constitutionality of a regulation by the States or by the Nation is opposed wholly on the ground that it deprives a person of life, liberty, or property without due process of law, the fundamental test of its constitutionality is its reasonableness, and the Supreme Court will hold it constitutional unless it is so unreasonable as to shock the average man as an arbitrary confiscatory and unreasonable action of government. We may quarrel with that test, but there is no doubt about the fact that it is the test under the due process clause.

The ACTING CHAIRMAN. Let me ask you a question along that line. It has been suggested to me here. Do you think that the Congress would have the power to prohibit the transportation of goods in interstate commerce which are made by women who are employed more than eight hours per day?

Prof. PARKINSON. It would not help at all, Senator, for me to answer that question. What I think about that would throw absolutely no light on the constitutionality of this bill.

The ACTING CHAIRMAN. We may be of a different opinion.

Prof. PARKINSON. It would throw absolutely no light upon the general question of the constitutionality of this bill; but I should say this, my own personal opinion is that it has been so well demonstrated in various parts of the country that excessive hours of work for women are so detrimental to the public health and the public welfare, it has become so well accepted that the Government has the power to interfere and prevent excessive hours of work for women, that I do not believe the Supreme Court of the United States would interfere to set aside the judgment of Congress if Congress should deliberately enact the bill suggested.

The ACTING CHAIRMAN. Is there anything further?

Prof. PARKINSON. Mr. Chairman, if you desire, I will send a copy of my complete brief on the subject to the clerk of the committee to be filed.

(The brief was subsequently submitted to the clerk of the committee and is here ordered printed in full as follows:)

A BRIEF DISCUSSING THE CONSTITUTIONALITY OF THE KEATING-OWEN CHILD-LABOR BILL.

[By Thomas I. Parkinson, of the legislative drafting bureau, Columbia University.]

The Palmer-Owen bill prohibiting shipment in interstate commerce of the products of child labor passed the House of Representatives in the last Congress and a similar bill (now known as the Keating-Owen bill) has been reported favorably by the House Committee on Labor. This brief undertakes to consider the various aspects of the constitutional power of Congress to regulate interstate commerce for the accomplishment of the purposes of these bills.

The conclusions of the brief may be summarized as follows:

I. The power of Congress over interstate commerce is complete and exclusive.

II. The power of Congress to regulate interstate commerce, as stated in the commerce clause of the Federal Constitution, includes power to prohibit absolutely the shipment or transportation in interstate commerce of specified persons or property.

III. The power of Congress over interstate commerce may be exercised in the interest of the public health, morals, safety, and welfare as well as in the interest of that commerce and its instrumentalities.

IV. Whatever its incidental effects, a Congressional regulation of interstate commerce is never a violation of the reserved rights of the States.

V. The power of Congress to prohibit shipment or transportation in interstate commerce is limited only by the requirement of the fifth amendment that such prohibition shall not constitute a deprivation of individual rights without due process of law; i. e., that such prohibition shall not be an arbitrary or unreasonable interference with the individual's rights of property or liberty of contract.

VI. The prohibition of shipment in interstate commerce of the products of child labor is a reasonable exercise of the congressional commerce power in the interest of the public welfare.

I. The Power of Congress over Interstate Commerce is Complete and Exclusive.

Congress has supreme and plenary power over interstate commerce. Article 1, section 8, clause 3 of the Federal Constitution provides: "That Congress shall have power * * * to regulate commerce with foreign nations among the several States and with the Indian tribes."

Under the Articles of Confederation each State had complete control over its own commerce. The exercise of this control resulted in embarrassing and destructive consequences and led to an oppressed and degraded state of commerce. (Brown *v.* Maryland, 12 Wheat., 419, 445 [1827].) The prevailing motive for the adoption of the present Constitution was to "rescue it from the * * * perpetual jarring and hostility of commercial regulation. * * * The entire purpose for which the delegates assembled at Annapolis was to devise means for the uniform regulation of trade. They found no means but in a general government; and they recommended a convention to accomplish that purpose. * * * We do not find in the history of the formation and adoption of the Constitution that any man speaks of a general concurrent power in the regulation of foreign and domestic trade as still residing in the States. The very object intended, more than any other, was to take away such power. If it had not so provided, the Constitution would not have been worth accepting." (Chief Justice Marshall in Gibbons *v.* Ogden, 9 Wheat., 1, 11, 12 [1824].)

It is no longer necessary to cite cases to support the declaration that the commerce clause has vested in Congress a broad, complete, and exclusive power over interstate and foreign commerce; but the following from one of Chief Justice Marshall's opinions is worth repeating here:

"It may be doubted whether any of the evils proceeding from the feebleness of the Federal Government contributed more to that great revolution which introduced the present system than the deep and general conviction that commerce ought to be regulated by Congress. It is not, therefore, a matter of surprise that the grant should be as extensive as the mischief, and should comprehend all foreign commerce and all commerce among the States. To construe the power so as to impair its efficacy would tend to defeat an object in the attainment of which the American public took, and justly took, that strong interest which arose from a full conviction of its necessity." (Brown *v.* Maryland, 12 Wheat., 419, 446 [1827].)

Whatever may have been the primary reason for the insertion of this clause in the Constitution it is now definitely settled that it has vested in Congress a broad, complete, and exclusive power over interstate commerce.

In the early case of Gibbons *v.* Ogden (supra 196), Chief Justice Marshall discusses the congressional power over interstate commerce as follows:

"What is this power? It is the power to regulate; that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. * * * If as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States. The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections are in this as in many other instances, as that for example of declaring war, the sole restraints on which they have relied to secure them from its abuse." (Quoted with approved in the Lottery Case [1902], 188 U. S., 321, 353.)

This view of the commerce power was affirmed by the Supreme Court in the late case of Hoke *v.* United States (227 U. S., 308 320 [1913]), where it is said: "The power is direct; there is no word of limitation in it, and it broad and universal scope has been so often declared as to make repetition unnecessary."

In the exercise of the power thus broadly granted and interpreted Congress has a wide discretion. A regulation of interstate commerce is not subject to attack in the courts on the ground that it is not the most advisable which Congress might have adopted under the circumstances. Thus in the Lottery Case (188 U. S., 321, 353 [1903]), the court said:

"They (prior decisions) also show * * * that in determining the character of the regulations to be adopted Congress has a large discretion which is not to be controlled by the courts simply because in their opinion such regulations may not be the best or most effective that could be employed."

The fact that an act of Congress regulating interstate commerce has the incidental effect of affecting or regulating intrastate commerce does not render it invalid. In a recent case Mr. Justice Hughes, citing numerous authoritative precedents, said:

"The completely internal commerce of a State, then, may be considered as reserved for the State itself. This reservation to the States manifestly is only of that authority which is consistent with and not opposed to the grant to Congress. There is no room in our scheme of government for the assertion of State power in hostility to the authorized exercise of Federal power. The authority of Congress extends to every part of interstate commerce and to every instrumentality or agency by which it is carried on; and the full control by Congress of the subjects committed to its regulation is not to be denied or thwarted by the commingling of interstate and intrastate operations. This is not to say that the Nation may deal with the internal concerns of the State as such, but that the execution by Congress of its constitutional power to regulate interstate commerce is not limited by the fact that intrastate transactions may have become so interwoven therewith that the effective government of the former incidentally controls the latter. This conclusion necessarily results from a supremacy of the national power within its appointed sphere." (Minn. Rate Cases, 230 U. S., 352, 398 [1913].)

These cases establish in our constitutional law the principle that the power of Congress to regulate interstate commerce is a broad and complete power acknowledging no limitations except those contained in the Federal Constitution. This power, says Chief Justice Marshall, "is complete in itself, may be exercised to its utmost extent and acknowledges no limitations other than are prescribed in the Constitution." In a very late case, Mr. Justice McKenna said: "The power is direct; there is no word of limitation in it and its broad and universal scope has been so often declared as to make repetition unnecessary." In a similar case Mr. Justice Harlan said that "in determining the character of the regulations to be adopted Congress has a large discretion which is not to be controlled by the courts"; and in a very recent case Mr. Justice Hughes said: "The full control by Congress of the subjects committed to its regulation is not to be denied or thwarted by the commingling of interstate and intrastate operations." These declarations by the Supreme Court ought to be kept prominently in mind in approaching the consideration of the constitutionality of the proposed Federal child-labor legislation, and particularly they ought to be kept constantly before us when consideraing the validity of objections to its constitutionality based upon such general assertions as that the framers of the Constitution did not intend such extensive use of the Federal power; that there are other means by which the desired result can be more effectively or expeditiously accomplished; that the commingling of interstate and intrastate business makes such legislation in effect a regulation of manufacture for the intrastate trade; that the proposed legislation would be an interference with the reserved powers of the States, and similar contentions.

II. The Power of Congress to Regulate Interstate Commerce, as Stated in the Commerce Clause of the Federal Constitution, Includes Power to Prohibit Absolutely the Shipment or Transportation in Interstate Commerce of Specified Persons or Property.

The States, by adopting the Federal Constitution, delegated to Congress the power "to regulate commerce * * * among the several States." We are, for the moment, concerned only with the interpretation of the word "regulate" and the determination of the question whether it should be interpreted to include power to prohibit. The answer must be found in the provisions of the Constitution itself as interpreted by the practice of Congress and the decisions of the Supreme Court. That the power under the commerce clause to regulate includes the power to prohibit is shown both by the application of general principles of interpretation and by authoritative precedent.

A. GENERAL PRINCIPLES OF INTERPRETATION JUSTIFY THE CONCLUSION THAT THE POWER TO REGULATE INTERSTATE COMMERCE INCLUDES POWER TO PROHIBIT IT.

1. The power of Congress over interstate commerce is the same as that enjoyed by the individual States prior to the adoption of the Federal Constitution.

Under the Articles of Confederation, each State had complete control over its commerce with the other States and could prevent the importation of the products of another State. The exercise of the power to regulate commerce most familiar to the framers of the Federal Constitution was the total or partial prohibition of traffic in particular articles. Several of the States had adopted such prohibitions. The only clause in the Constitution which took from the individual States any of their power over commerce is that which placed the power to regulate interstate commerce in the Federal Congress. The Supreme Court has decided that the power of Congress under this clause is exclusive; no residuum of power over insterstate commerce has been left to the States.

If the individual States prior to the adoption of the Federal Constitution possessed power to prohibit imports from other States, and if the entire power of the States over interstate commerce was transferred to and vested in the Federal Government, what has become of the power to prohibit transportation across State lines if it was not included in the grant to Congress of power to regulate commerce between the States? It may be argued that when the individual States surrendered this power to prohibit imports it thereupon ceased to exist in either the Federal or State Governments, but that the framers of the Constitution intended to transfer to Congress this power to prohibit transportation across State lines is demonstrated by article 1, section 9, of the Constitution, which is quoted and discussed in the following section of this brief. Further argument along these lines would seem to be unnecessary and academic. Unquestionably the States possessed the power to prohibit. It is equally certain that they gave up that power on the adoption of the Federal Constitution. It is, however, important that the only provision in the Constitution which vests in Congress the power over commerce previously exercised by the States is the clause which authorizes Congress to "regulate" interstate commerce. Many learned reasons may be advanced to prove that "regulate" does not mean "prohibit" but the fact is that "regulate" was selected as the word to transfer to Congress the full power previously possessed by independent States, and that of course included power to prohibit.

2. That the power to regulate was intended to include the power to prohibit is indicated by other provisions of the Constitution.

Article 1, section 9, of the Federal Constitution provides: "The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808." A prohibition by Congress of the migration or importation of such persons could be based only on the power to regulate interstate and foreign commerce, and if the framers did not intend the power to regulate to include the power to prohibit, this express restriction on the power to prohibit migration or importation of certain persons was entirely unnecessary and superfluous. It must be assumed that the framers of the Constitution believed that there was necessity for this provision, and that they so believed indicates that they intended that the power granted to Congress to regulate commerce in an earlier section of the Constitution should include the power to prohibit the migration or importation of these persons. This clause can not be waved aside as relating only to importation from foreign countries into this country. It is perfectly definite and relates as well to "the migration * * * of such persons as any of the States * * * shall think proper to admit."

Referring to this section, Chief Justice Marshall, in Gibbons *v.* Ogden (9 Wheat., 1, 216 [1824]), said:

"(This section) has always been considered as an exception from the power to regulate commerce and * * * so far as an exception from a power proves its existence. this section proves that the power to regulate commerce applies equally to the regulation of vessels employed in transporting men, who pass from place to place voluntarily, and to those who pass involuntarily."

3. The power of Congress over interstate commerce is as extensive as the power over foreign commerce and it is established that the power to regulate foreign commerce includes the power to prohibit.

Congress derives its power to regulate interstate commerce from the same clause of the Constitution from which is derived its power over foreign commerce. The power over interstate and foreign commerce is granted in precisely the same words and the Supreme Court has repeatedly declared that these powers are identical. In Bowman *v.* Chicago & Northwestern Railway Co. (125 U. S., 465, 482 [1888]), the court said:

"The power conferred upon Congress to regulate commerce among the States is indeed contained in the same clause of the Constitution which confers upon it power

to regulate commerce with foreign nations. The grant is conceived in the same terms, and the two powers are undoubtedly of the same class and character and equally extensive."

And again, in Crutcher *v.* Kentucky, (141 U. S., 47, 57 [1891]) the court said:

"It has frequently been laid down by this court that the power of Congress over interstate commerce is as absolute as it is over foreign commerce."

Similar statements by the court, to the effect that the power granted to Congress over interstate commerce is as extensive as the power over foreign commerce, may be found in Gibbons *v.* Ogden (9 Wheat., 1, 194, 228 [1824]); License Cases (5 Howard, 504, 578 [1847]); Brown *v.* Houston (114 U. S., 622, 630 [1885]); Pittsburg & Southern Coal Co. *v.* Bates (156 U. S., 577, 587 [1895]); Lottery Cases, (188 U. S., 321, 351 [1903]).

The regulation of foreign commerce by Congress has frequently assumed the form of prohibition. The nonimportation and embargo acts, which were upheld by the Supreme Court, are striking illustrations of the exercise of this power. In the case of Gibbons *v.* Ogden (9 Wheat., 1, 192 [1824]), Chief Justice Marshall, referring to the argument that embargoes are an instrument of war depending for their validity on the war-making power, said:

"They are sometimes resorted to without a view to war and with a single view to commerce. * * * When Congress imposed that embargo which for a time engaged the attention of every man in the United States, the avowed object of the law was the protection of commerce and the avoiding of war."

Again, in United States *v.* Marigold (9 Howard, 560, 566 [1850]), the court said:

"Since the passage of the embargo and nonintercourse laws, and the repeated judicial sanctions those statutes have received, it can scarcely, at this day, be open to doubt that every subject falling within the legitimate sphere of commercial regulation may be partially or wholly excluded, when either measure shall be demanded by the safety or by the important interests of the entire Nation."

In United States *v.* William (28 Fed., 614 [1808]), the then recent embargo act was sustained as a valid regulation of foreign commerce.

In the more recent case of Butterfield *v.* Stranahan (192 U. S., 470 [1904]), an act of Congress prohibiting the importation of inferior grades of tea was held constitutional.

In Oceanic Navigation Co. *v.* Stranahan (214 U. S., 320 [1909]), an act excluding aliens was sustained, and in The Abby Dodge (223 U. S., 166 [1912]), a conservation measure excluding deep-sea sponges taken by divers was upheld.

No more effective argument in favor of the power can be advanced than a statement of the frequent use of the power particularly in recent tariff acts. Among the recent prohibitions may be mentioned that against foreign convict-made articles; that against importation into the United States of fur-seal skins taken in violation of law; and that against the importation of the eggs of game birds.

This power of Congress to prohibit importation as a part of the power to regulate foreign commerce has become so well established that the references to it in the latter cases are hardly more than a statement recognizing the existence of the power. Thus in Weber *v.* Freed (Case No. 644, Dec. 13, 1915), the court, in upholding the constitutionality of the act prohibiting the introduction of prize-fight films into the United States, said that Congress possesses a complete power over foreign commerce and "its authority to prohibit the introduction of foreign articles" is "recognized and enforced by many previous decisions of this court."

Since the power to regulate foreign commerce may be exercised to the extent of absolute prohibition, and since the power over interstate commerce is equally extensive, it, too, may be exercised to the extent of prohibition. So far, therefore, as the commerce clause itself is concerned and without considering for the moment other clauses of the Constitution which affect the question, it may be stated with confidence that the power over interstate commerce may be exercised by prohibitive measures to the same extent as in the case of foreign commerce. This is not to assert that in dealing with interstate traffic Congress possesses the same unrestricted and arbitrary power of prohibition which it may exercise over foreign commerce. The reason for the difference, however, is found not in the commerce clause, but in the due process clause of the Constitution, which restrains Congress from arbitrarily depriving the individual of vested property rights. We have detached the restrictive effect of the due process clause from our present consideration because of the desirability of first obtaining a clear view of the power delegated to Congress by the commerce clause. Whether the power to regulate commerce includes power to prohibit commerce in specified articles is one question, and whether Congress may prohibit commerce in a specified article is another. The former involves the question of Federal and State jurisdiction over commerce; the latter involves the totally different question as to the extent of the right of the individual under the fifth amendment to insist that Congress shall not exercise its otherwise admitted power over commerce in such manner as to deprive the individual of his property or liberty without due process. The

former raises the issue between Nation and State under the commerce clause and the reserved powers clause; the latter raises the issue between the Nation and the individual under the commerce clause and the fifth amendment.

B. PRECEDENT JUSTIFIES THE CONCLUSION THAT THE POWER TO REGULATE INCLUDES THE POWER TO PROHIBIT INTERSTATE COMMERCE.

The foregoing theories of interpretation of the commerce clause and the precedents derived from its exercise over foreign commerce standing alone, compel the conclusion that the power to regulate includes the power to prohibit in interstate as well as foreign commerce: but fortunately we have additional and more specific authority to the same effect in a number of decisions of the Supreme Court in which prohibitions of transportation or shipment in interstate commerce of specified persons or things have been sustained. It is sufficient to list the prohibited persons and things and cite the cases sustaining their exclusion from interstate commerce.

1. Prohibition of transportation of lottery tickets or advertising matter relating to lotteries.

The act of Congress of 1895 (28 Stat. L., 963, ch. 191) forbade, under penalty of criminal punishment, the bringing into the United States for the purpose of disposing thereof, or the carrying from one State to another of any lottery ticket or advertisement relating to lotteries. The Supreme Court held that lottery tickets and advertising matter were subjects of commerce, that the regulation of their carriage from State to State was a regulation of interstate commerce, and that Congress had the power to prohibit their carriage in such commerce. (Lottery cases, 188 U. S., 321 [1903].)

2. Obscene literature and articles designed for immoral and indecent use.

The act of February 8, 1897 (29 Stat. L., 512, ch. 172), and March 4, 1909 (37 Stat. L., sec. 249), prohibiting the carrying of such literature and articles from one State to another was held constitutional in United States *v.* Popper (98 Fed. Rep , 423 [1899]). This act was cited with approval in Hoke *v.* United States (227 U. S., 308 [1913]).

3. Adulterated or misbranded food and drugs.

The act of June 30, 1906 (34 Stat. L., 768, ch. 3915), prohibits the shipment or delivery for shipment in interstate commerce of any adulterated or misbranded food or drug under penalty of criminal punishment. This act has been interpreted and its penalties enforced by the Supreme Court in the case of Hipolite Egg Co. *v.* United States (220 U. S., 45 [1911]), and in United States *v.* Lexington Mill & Elevator Co. (232 U. S., 399 [1914]). These cases are authority for the right of Congress to condemn when found in interstate commerce, the articles whose shipment is prohibited, and they are generally accepted as authority for the constitutionality of the prohibition. In Seven Cases *v.* United States (Nos. 50 and 51, Jan. 10, 1916), the Supreme Court upheld the constitutionality of an amendment to this act which provided that misbranding includes any statement regarding the curative or therapeutic value of the article or ingredients which is false and fraudulent.

4. Transportation of women from one State to another for immoral purposes.

The act of Congress of June 25, 1910 (35 Stat. L., 825, ch. 395), prohibited the transportation in interstate commerce, for immoral purposes, of women and girls. This act was held constitutional in Hoke *v.* United States (227 U. S., 308 [1913]).

5. Transportation in interstate commerce of a commodity in which the carrier thereof has a legal interest.

The act of Congress of June 29, 1906 (34 Stat. L., 584, ch. 3591), commonly known as the Hepburn Act, prohibited the carriage in interstate commerce of commodities in which at the time of such transportation the carrier had a legal interest direct or indirect. This prohibition was held constitutional in United States *v.* Delaware & Hudson Railroad Co. (213 U. S., 366, [1909]).

6. Indirect prohibition of the transportation of intoxicating liquors in interstate commerce.

In 1890 Congress passed the Wilson Act (26 Stat. L., 313, ch. 728), which provided that upon arrival within a State intoxicating liquors should become subject to the police regulations of the State and should not be exempt therefrom under the rules protecting original packages shipped in interstate commerce, even after their arrival in the State to which they were consigned. The Wilson Act was a declaration by Congress that despite the exclusive power of Congress over such original packages in their transit to the point of destination, they should become subject to the State police regulations as soon as they reached the consignee. In In re Rahrer (140 U. S., 545 [1891]), this act was held constitutional and a State law prohibiting the sale of intoxicating liquor in the original package was held to apply to a sale in the original

package of liquor brought from another State. The power of Congress thus to subject a legitimate article of commerce to laws which practically prohibited its transportation into a State, implies a power on the part of Congress directly to prohibit such transportation. And Congress has prohibited by the Webb-Kenyon Act of 1913 (37 Stat. L., 699, ch. 90) the shipment into a State of intoxicating liquor intended to be used in such State contrary to the laws thereof. The constitutionality of this latter act, like that of the pure food and drugs act, has not been questioned, but the Supreme Court by implication has sustained its constitutionality. I Adams Express Co. *v.* Kentucky (238 U. S., 190 [1914]) the court was compelled to interpret and apply the Webb-Kenyon Act in a case involving the power of Kentucky to exclude shipments of intoxicating liquors from that State when they were not intended to be used in violation of the State laws. The Kentucky statute was held to be a regulation of interstate commerce and unconstitutional because it did not come within the terms of the congressional act. There can be no doubt, considering the attitude of the court toward the Wilson Act and in the case cited, that the Webb-Kenyon bill would be sustained as constitutional.

7. Prohibition of shipment or transportation of meats which have not been inspected.

The meat-inspection act of 1906 prohibits the shipment or transportation in interstate commerce of meat "which has not been inspected, examined, and marked 'Inspected and passed.'" Violation of the provisions of this act is penalized irrespective of the knowledge on the part of the shipper or carrier.

8. Prohibition of the shipment or transportation of cattle in interstate commerce except under regulations established by the Secretary of Agriculture.

The cattle quarantine acts of 1903 and 1905 authorize the Secretary to make rules and regulations and to establish a cattle quarantine and provide a penalty for violation thereof. The enforcement of these acts is secured through the refusal of carriers to accept shipments of cattle unless accompanied by the certificate of the Department of Agriculture.

9. Prohibition of the shipment or transportation in interstate commerce of unmarked imported nursery stock or quarantined nursery stock.

The nursery stock act of 1912, prohibiting such shipment or transportation, imposes a penalty for violation, which is enforced against the shipper even in the absence of knowledge on his part of his violation.

10. Prohibition of the shipment or transportation of game in interstate commerce.

The Lacey Act (sec. 242 of the Criminal Code of the United States) prohibits the shipment or transportation in interstate commerce of (1) "foreign animals or birds the importation of which is prohibited" and (2) "dead bodies or parts thereof" of "wild animals or birds" killed or shipped in violation of the laws of the State where killed or from which shipped. Violation is punished in the case of the shipper irrespective of his knowledge.

11. Prohibition of the shipment or transportation in interstate commerce of renovated butter.

The act of 1902 prohibits shipment or transportation in interstate commerce of renovated butter unless marked in the way specified in the act. Violations are punished irrespective of knowledge.

12. Prohibition of shipment in interstate commerce of specified virus, serum, etc.

The act of 1913 prohibits shipment of "worthless, contaminated, dangerous or harmful virus, serum, etc.," for domestic animals, or the shipping of any virus, serum, etc., unless prepared under regulations of the Secretary of Agriculture at an establishment holding a license from the Secretary of Agriculture.

13. Prohibition of importation and interstate transportation of prize-fight picture films.

The act of July 31, 1912 (37 Stats. L., 240), makes it unlawful to bring into the United States or to ship or transport in interstate commerce picture films representing prize fights designed to be used or capable of use for public exhibition. This act was held constitutional in its application to importations in the case of Weber *v.* Freed (No. 644, Oct. term, 1915, Opinion Dec. 13, 1915).

In view of these decisions it is unquestionable that, so far as the commerce clause is concerned, a regulation of interstate commerce may take the form of an absolute prohibition of shipment or transportation in such commerce. As the Supreme Court has said:

"It can scarcely, at this day, be open to doubt that every subject falling within the legitimate sphere of commercial regulation may be partially or wholly excluded when either measure shall be demanded by the safety or by the important interests of the entire nation." (U. S. *v.* Marigold, supra.)

III. THE POWER OF CONGRESS OVER INTERSTATE COMMERCE MAY BE EXERCISED IN THE INTEREST OF THE PUBLIC HEALTH, MORALS, SAFETY, AND WELFARE AS WELL AS IN THE INTEREST OF THAT COMMERCE AND ITS INSTRUMENTALITIES.

It is frequently stated in the opinions of the Supreme Court that Congress possesses a police power under the commerce clause. This means in effect that Congress may exercise its express powers—of which the commerce power is one—for the purpose of protecting and furthering the general welfare of the people. The use of its powers for such general purposes is analogous to the use by the States of their so-called police power. This power in the States is simply the inherent power of government to legislate for the common good, notwithstanding guarantees of individual rights and liberties contained in our constitutions. In the case of Congress, which possesses no inherent power, but is limited to powers expressly granted by the Federal Constitution, this so-called police power is merely a right to make use of its express powers to provide for the public welfare. In both cases the purpose of exercising the power is the same and it is, therefore, convenient, as it has become usual—to refer to the exercise of the commerce and other express powers in the interest of the general welfare as the police power of Congress. This phrase will not prove confusing if we remember that by it we mean simply that use of the commerce power which aims not at benefiting or advancing commerce itself or its instrumentalities, but at advancing the general welfare through regulation of commerce.

Thus it has been held that under the power to establish postoffices and post roads Congress may prohibit the transportation through the mails of all letters or circulars concerning lotteries. (Ex parte Jackson [1877] 96 U. S., 727; in re Rapier [1892] 143 U. S., 110.)

Similarly, the use of the mails may be denied to any person or company engaged in conducting any lottery or device for obtaining money or property by means of false pretenses. (Public Clearing House *v.* Coyne [1904] 194 U. S., 497.)

From the earliest days of our Nation it has been regarded as within the power of Congress in regulating foreign commerce to enact laws, not for the exclusive benefit or advancement of that commerce, but for the protection of the interests of the country.

The embargo and nonintercourse laws are examples of such legislation. Thus, in United States *v.* Marigold (1850), (9 Howard, 560, 566), the court said:

"Since the passage of the embargo and nonintercourse laws, and the repeated judicial sanctions those statutes have received, it can scarcely, at this day, be open to doubt that every subject falling within the legitimate sphere of commercial regulation may be partially or wholly excluded, when either measure shall be demanded by the safety or by the important interests of the entire nation."

In United States *v.* Williams (1808), (28 Fed. Cases, 614, 621) Judge Davis, in sustaining the constitutionality of the then recent embargo act, said directly:

"Further, the power to regulate commerce is not to be confined to the adoption of measures exclusively beneficial to commerce itself, or tending to its advancement; but in our national system, as in all modern sovereignties, it is also to be considered as an instrument for other purposes of general policy and interest."

In an essay on the commercial power of Congress, Mr. David Walter Brown, of the New York bar, thus summarizes the early exercise of the commerce power:

"The policy of restriction included measures of two kinds: (1) The prohibition of the importation of foreign commodities and of the entry of foreign vessels into our ports, and (2) embargoes upon commerce. They illustrate, upon a grand scale and in a drastic manner, the application of the commercial power of Congress to the attainment of great national ends through restrictions placed upon various branches of trade, and extending even to total prohibition; and in so far as the precedents furnished by them are authoritative, they indicate the unsoundness of the view that the power of Congress to regulate commerce is restricted to the passing of measures to advance it, but stops short of the power to prohibit it."

That this conclusion is correct is shown by the following quotation from the case of Buttfield *v.* Stranahan (1904) (192 U. S., 470), where the Supreme Court, in holding constitutional an act of Congress which prohibited the importation of inferior teas, said (p. 493):

"Congress has also, in other than tariff legislation, exerted a police power over foreign commerce by provisions which in and of themselves amounted to the assertion of the right to exclude merchandise at discretion. This is illustrated by statutory provisions which have been in force for more than 50 years, regulating the degree of strength of drugs, medicines, and chemicals entitled to admission into the United States and excluding such as did not equal the standards adopted."

If the power of Congress over foreign commerce may be used as "an instrument for the purposes of general policy" and if the power over foreign commerce is the same as that over interstate commerce, it would be fair to conclude from these cases alone that the power over interstate commerce might likewise be used as "an instrument for purposes of general policy."

We have, however, decisions in the Supreme Court directly affirming the existence in Congress of a police power which may be exercised through its power over interstate commerce. The first important decision on this subject was the Lottery Case (1903) (188 U. S., 321), in which it was held that Congress has power to prohibit the interstate transportation of lottery tickets. In delivering the opinion of the court, Mr. Justice Harlan said:

"If a State, when considering legislation for the suppression of lotteries within its own limits, may properly take into view the evils that inhere in the raising of money, in that mode, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of lottery tickets from one State to another (p. 356). * * * As a State may, for the purpose of guarding the morals of its own people, forbid all sales of lottery tickets within its limits, so Congress, for the purpose of guarding the people of the United States against the 'widespread pestilence of lotteries' and to protect the commerce which concerns all the States, may prohibit the carrying of lottery tickets from one State to another. * * * We should hesitate long before adjudging that an evil of such appalling character, carried on through interstate commerce, can not be met and crushed by the only power competent to that end. We say competent to that end, because Congress alone has the power to occupy, by legislation, the whole field of interstate commerce (p. 357). * * * If the carrying of lottery tickets from one State to another be interstate commerce, and if Congress is of opinion that an effective regulation for the suppression of lotteries carried on through such commerce, is to make it a criminal offense, to cause lottery tickets to be carried from one State to another, we know of no authority in the courts to hold that the means thus devised are not appropriate and necessary to protect the country at large against a species of interstate commerce * * * which has grown into disrepute and has become offensive to the entire people of the nation" (p. 358).

This case definitely decides that Congress may exercise its power over interstate commerce for the protection of the morals and general welfare of the people. Lottery tickets, as specific articles of commerce, were harmless in themselves, and the legislation in question was not enacted for the benefit of interstate commerce itself, or tending to its advancement. The purpose, as appears from the foregoing quotation, was the suppression of lotteries. Congress had no power to prohibit directly the raising of money by lotteries, but under the power to regulate commerce it could deny to such business the privilege of using the facilities of interstate commerce.

In the pure food and drugs act (June 30, 1906, 24 Stat. L., 768) Congress prohibited the shipment in interstate commerce of adulterated or misbranded food and drugs. The constitutionality of such legislation as a regulation of commerce has been affirmed expressly by the lower courts and impliedly by the Supreme Court. (Hipolite Egg Co. *v.* U. S. [1911], 220 U. S. 45; U. S. *v.* Johnson [1911], 221 U. S., 488; U. S. *v.* Lexington Mill Co. [1914], 232 U. S. 399; Seven Cases *v.* U. S. Nos. 50 and 51, Jan. 10, 1916; U. S. *v.* Heinle Spec. Co. [1910], 175 Fed. 299: Shawnee Milling Co. *v.* Temple [1910], 179 Fed. 517; U. S. *v.* Sacks of Flour [1910], 180 Fed. 518; U. S. *v.* Seventy-four Cases [1910], 181 Fed. 629.)

In the case of McDermott *v.* Wisconsin, 228 U. S. 115 [1912] the court in declaring a State statute to be in conflict with the Federal pure food and drugs act, said (p. 128):

"That Congress has ample power in this connection is no longer open to question. That body has the right not only to pass laws which shall regulate legitimate commerce among the States and with foreign nations, but has full power to keep the channels of such commerce free from the transportation of illicit or harmful articles, to make such as are injurious to the public health outlaws of such commerce, and to bar them from the facilities and privileges thereof."

The most recent illustration of the exercise of this police power of Congress which has been sustained by the Supreme Court is to be found in the act known as the white-slave traffic act (June 25, 1910, 36 Stat. L., 825, ch. 395), by which Congress made it a criminal offense to transport women in interstate commerce for immoral purposes. This act was held constitutional in Hoke *v.* United States [1913] (227 U. S., 308) and in Wilson *v.* United States [1914] (232 U. S., 563). In the first case the court said:

"There is unquestionably a control in the States over the morals of their citizens, and, it may be admitted, it extends to making prostitution a crime. It is a control, however, which can be exercised only within the jurisdiction of the States, but there

is a domain which the States can not reach and over which Congress alone has power; and if such power be exerted to control what the States can not, it is an argument for—not against—its legality. Its exertion does not encroach upon the jurisdiction of the States. We have cited examples; others may be adduced. The pure food and drugs act is a conspicuous instance. In all of the instances a clash of national legislation with the power of the States was urged, and in all rejected."

"Our dual form of government has its perplexities, State and Nation having different spheres of jurisdiction, as we have said, but it must be kept in mind that we are one people; and the powers reserved to the States and those conferred on the Nation are adapted to be exercised, whether independently or concurrently, to promote the general welfare, material and moral. * * * Surely if the facility of interstate transportation can be taken away from the demoralization of lotteries, the debasement of obscene literature, the contagion of diseased cattle or persons, the impurity of food and drugs, the like facility can be taken away from the systematic enticement to and the enslavement in prostitution and debauchery of women (p. 322). * * * The principle established by the cases is the simple one, when rid of confusing and distracting considerations, that Congress has power over transportation 'among the several States'; that the power is complete in itself, and that Congress, as an incident to it, may adopt not only means necessary but convenient to its exercise, and the means may have the quality of police regulation" (p. 323).

In the Wilson case it was said:

"As has already been decided, it (the act in question) has the quality of a police regulation, although enacted in the exercise of the power to regulate interstate commerce" (p. 567).

Although Congress can not directly prohibit prostitution within a State, it can contitutionally attempt to suppress prostitution by prohibiting the transportation of women in interstate commerce for that purpose.

The cases cited, it is submitted, definitely and necessarily establish the principle that Congress can regulate interstate commerce in the interest of public health, safety, morals, or welfare; in other words, Congress may regulate interstate commerce in such manner as to prevent its being used to maintain or to further conditions which are detrimental to the general welfare of the community. Mr. Justice Hughes, in the recent case of Seven Cases v. United States (Nos. 50 and 51, October term, 1915, opinion January 10, 1916), referring to the decision in the white-slave case, said:

"The court concluded with the reassertion of the simple principle that Congress is not to be denied the exercise of its constitutional authority over interstate commerce, and its power to adopt not only means necessary but convenient to its exercise, because these means may have the quality of police regulations."

IV. Whatever its Incidental Effects, a Congressional Regulation of Interstate Commerce is Never a Violation of the Reserved Rights of the States.

We have seen that Congress under the commerce clause possesses a broad, complete, and exclusive power to regulate interstate commerce; that this power to regulate includes power to prohibit the shipment or transportation of specified persons or property; and that in the exercise of its power to regulate interstate commerce Congress is not confined to measures which have for their purpose the good of interstate commerce and its instrumentalities, but may, in addition to such measures, regulate such commerce in the interest of promoting the public health, safety, morals, and welfare. From these established principles, it is apparent that Federal legislation prohibiting the shipment in interstate commerce of the products of child labor is within the jurisdiction over commerce transferred by the States to the Federal Government and vested in Congress by the Federal Constitution. There can be no doubt that such legislation regulates interstate commerce within the interpretation which the Supreme Court has uniformly given to the commerce clause. As a regulation of interstate commerce, it is unquestionably within the jurisdiction of the Federal control over commerce.

It is idle to say that it interferes with the reserved powers of the States. It is true, the Federal Constitution in Article X of the amendments provides that "powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people." This provision becomes important, however, only after it has been determined that the power to do that which is proposed has not been delegated to Congress. The very essence of the argument in favor of the constitutionality of Federal child labor-legislation is that it is included within the power of Congress to regulate commerce. If it is within the congressional power, which by the Constitution was delegated to the exclusive control of Congress, then it can not fall within that realm of powers not delegated but

reserved to the States. In the consideration of objections of this sort it must be remembered that Congress is not making the employment of children illegal but is merely excluding from interstate commerce the products of child labor. The fact that the congressional regulation may prevent or restrict the employment of children in the manufacture of goods within the State does not affect the constitutionality of the congressional action. So long as it is a regulation of commerce and so long as it does not constitute a deprivation of property without due process, the power of Congress is supreme. Prof. Goodnow, now president of Johns Hopkins University, in his Social Reform and the Constitution (p. 91), says: "Men's minds are peculiarly twisted when they argue under a Constitution containing such a provision (the commerce clause) that a regulation purporting to be a regulation of interstate commerce is not such because it will necessarily have the incidental effect of regulating conditions of manufacture. The only reason why it will have this incidental effect is because in the economic conditions of the present day, manufacturing has ceased to be a State and has become an interstate matter."

In the Northern Securities case [1903] (193 U. S., 197, 342), the court asked:

"Is there, then, any escape from the conclusion that, subject only to such restrictions, the power of Congress over interstate and international commerce is as full and complete as is the power of any State over its domestic commerce?"

Only after we have determined the limit of the congressional power can we ascertain under the tenth amendment what other and additional power has been reserved either to the States or to the people. In determining the respective jurisdictions of Congress and the States over the subject of commerce, we are confined to the interpretation of the provisions of the Federal Constitution and in that instrument the only provisions which relate to the subject are the commerce clause and the provision of Article I, section 9, hereinbefore quoted which forbade congressional prohibition prior to 1808 of the migration or importation of such persons as any State might see fit to admit. We are, therefore, practically confined to the commerce clause and its interpretation in the determination of the limits of the power of Congress and the extent of the power of the States over commerce. The fifth amendment has no application in the determination of the respective spheres of jurisdiction of the Nation and the State. The effect of that amendment in giving to individuals the right to protest against the exercise by Congress of any of its powers in such manner as to deprive the individual of life, liberty, or property without due process of law is considered in the following subdivisions of this brief. The point which we desire to make here is that that amendment throws no light on the question of the extent to which the congressional power over interstate commerce may be expanded into fields which the Federal Government has not heretofore occupied.

That Congress may reach conditions of manufacture and other acts which take place prior to transportation in interstate commerce is illustrated by the meat-inspection act (34 Stat. L., pp. 675 and 1260) and section 9 of the pure food and drugs act. The meat-inspection act provides that no meat may be shipped in interstate commerce ulness labeled in accordance with the provisions of the act and that inspectors may enter the establishments for the purpose of such inspection. The constitutionality of this act has never been questioned. Section 9 of the pure food and drugs act provides that no dealer who ships in interstate commerce adulterated or misbranded articles shall be prosecuted if he can establish a guarantee from the manufacturer from whom he purchased the article that the same is not adulterated or misbranded, and that in such case the party making the guarantee shall be amenable to prosecutions. In United States *v.* Heinle Specialty Co. (175 Fed., 299 [1910]), a manufacturer was prosecuted for selling adulterated food with a guarantee to a dealer in the same State, the dealer having subsequently shipped the food in interstate commerce. It was contended on behalf of the manufacturer that his connection with the food—that is, its manufacture and sale—was entirely an intrastate matter, and that the ninth section of the pure-food act was therefore unconstitutional in that it attempted to penalize acts wholly intrastate. The court refused to accept this argument, and in holding the section constitutional said:

"There is nothing in the act to indicate that there is an effort on the part of Congress to regulate the manufacturing, selling, or delivering of any articles of food within the States. The act is intended to prevent adulterated and misbranded foods from being sold in interstate commerce—nothing more; and in order that this may be accomplished it prohibits the party who makes or manufactures the food and who knows what it contains from falsely assuring an innocent purchaser that its quality and dress lawfully entitles him to sell the commodity in interstate commerce."

In like manner the proposed child-labor legislation does not attempt to regulate either manufacture within a State or intrastate sales, but simply attempts to prevent the products of child labor from being sold in interstate commerce. As was said in the Hoke case (227 U. S., 308, 322):

"It may be that Congress could not prohibit the manufacture of the article in a State. It may be that Congress could not prohibit in all of its conditions its sale within a State; but Congress may prohibit its transportation between the States, and by that means defeat the motive and evils of its manufacture."

In the lottery and white slave cases it was argued that Congress was invading the jurisdiction of the States and was attempting to enact police regulations which under the Constitution were reserved to the States exclusively. The court, in the Hoke case, in holding that Congress was acting within its power, effectually disposed of this contention:

"The power of Congress under the commerce clause of the Constitution is the ultimate determining question. If the statute be a valid exercise of that power, how it may affect persons or States is not material to be considered. It is the supreme law of the land and persons and States are subject to it." (Hoke *v.* U. S. [1913], 227 U. S., 308, 320.)

Mr. Justice Hughes, in replying to this same contention, urged against the Sherley amendment to the pure food and drugs act (Seven Cases *v.* United States, Nos. 50 and 51, Jan. 10, 1916), said:

"So far as it is objected that this measure, though relating to articles transported in interstate commerce, is an encroachment upon the reserved powers of the States, the objection is not to be distinguished in substance from that which was overruled in sustaining the white slave act. There, after stating that if the facility of interstate transportation can be denied in the case of lotteries, obscene literature, diseased cattle and persons, and impure food and drugs, the like facility could be taken away from 'the systematic enticement of and the enslavement in prostitution and debauchery of women,' the court concluded with the reassertion of the simple principle that Congress is not to be denied the exercise of its constitutional authority over interstate commerce, and its power to adopt not only means necessary but convenient to its exercise, because these means may have the quality of police regulations."

These cases establish the right of Congress to exercise a complete power in the regulation of interstate commerce limited only by the due process clause. Argument to the effect that this power is also limited by an inherent right of the States is academic and untenable because wholly contrary to the precedents. The power is granted to Congress in plain and unmistakable terms, without limitation and with the express purpose of ameliorating unsatisfactory and injurious results occasioned by State control. In its exercise of this delegated power, Congress is absolutely unrestrained notwithstanding any indirect economic effects that its regulation may have upon the States. As long as it is regulating articles of interstate commerce and is not arbitrarily depriving persons of liberty or property by arbitrary regulation. Congress is authorized to exercise unlimited power. In the words of Mr. Justice Hughes (address before the New York State Bar Association, Jan. 14, 1916):

"Thus it is recognized that within its sphere, as defined by the Constitution, the Nation is supreme. The question is simply of the extent of the Federal power as granted; where there is authorized exercise of that power there is no reserved power to nullify it—a principle obviously essential to the maintenance of national integrity, yet continually calling for new applications. Thus, regulations required in the exercise of the judgment committed to Congress for the protection of interstate commerce can not be made nugatory by the mere commingling of interstate and intrastate transactions. To illustrate, Congress has taken account of the practical exigencies of traffic, and of the interdependence of train movements, and has insisted that cars moving on railroads that are highways of interstate commerce shall be suitably equipped to the end that interstate traffic shall not be exposed to unnecessary danger. Again, Congress has asserted its authority to compel interstate carriers to give to interstate traffic reasonable rates without unjust discrimination; and the question whether interstate trade was left to be destroyed by hostile discrimination under the authority of local governments was decisively answered when the Constitution superseded the Articles of Confederation."

So far as the respective jurisdictions of State and nation over commerce are concerned, can there be any doubt under the congressional practice and the judicial decisions which have been discussed in the preceding sections of this brief that the proposed prohibition of shipments of products of child labor in interstate commerce is within the Federal jurisdiction? However much we may think that such power ought not to be within the Federal jurisdiction, whatever may be our individual opinions as to the desirable balance of powers between the Federal Government and the States in this matter, the simple fact is that the Federal Constitution as now worded gives Congress power to regulate interstate commerce and gives the whole of this power to Congress to the entire exclusion of the States. The question is not what the Constitution ought to provide, but what it does provide. The constitutionality of the

proposed legislation is not to be determined by our ideas as to how the commerce clause ought to be interpreted but by the congressional practice and judicial decisions which stand as precedents for its proper intervention. On this basis the proposed Federal child-labor bill is clearly within the Federal jurisdiction, and if it is unconstitutional it must be for reasons other than its interference with the powers of the States.

This brings us to the consideration of the most important problem involved in the constitutionality of the proposed legislation, namely, What is the extent of the right of the individual under the fifth amendment to say to the Federal Government: "You can not exercise even the powers expressly delegated to you in such manner as to deprive me of my property or liberty without due process of law?"

V. THE POWER OF CONGRESS TO PROHIBIT SHIPMENT OR TRANSPORTATION IN INTERSTATE COMMERCE IS LIMITED ONLY BY THE REQUIREMENT OF THE FIFTH AMENDMENT THAT SUCH PROHIBITION SHALL NOT CONSTITUTE A DEPRIVATION OF INDIVIDUAL RIGHTS WITHOUT DUE PROCESS OF LAW; I. E., THAT SUCH PROHIBITION SHALL NOT BE AN ARBITRARY OR UNREASONABLE INTERFERENCE WITH THE INDIVIDUAL'S RIGHTS OF PROPERTY OR LIBERTY OF CONTRACT.

The preceding sections of this brief point out that aside from the provision of article 1, section 9, respecting congressional prohibition of the migration of slaves and the commerce clause itself, there is nothing in the Federal Constitution which in any way limits or affects the congressional power over interstate commerce except the fifth article of the amendments which provides: "No person shall be 'deprived of life, liberty or property without due process of law.'" This amendment, it has also been pointed out, does not affect the issue which arises between the Nation and the State in regard to their respective jurisdictions over commerce, but is simply a guarantee to the individual of protection against the arbitrary action of the Federal Government. The fifth amendment protects the individual against Federal action depriving him of life, liberty or property without due process of law in precisely the same way that the fourteenth amendment protects him against State action depriving him of life, liberty or property without due process of law. It neither limits the Federal power in the interest of State power nor gives to the State any right to object to the extent or the manner in which the Federal Government exercises its powers. This amendment limits the Federal Government in the exercise of its express powers in precisely the same way that the fourteenth amendment limits the State government in the exercise of those inherent powers which are ordinarily described by the courts as the State's police power.

In the Lottery Case (188 U. S. 321, 362 [1903]), it was argued that the principle which would justify the exclusion of lottery tickets from interstate commerce would lead necessarily to the conclusion that any article of whatever kind or nature could be be excluded by Congress regardless of the motive or purpose of such exclusion. Replying to this contention, Mr. Justice Harlan said:

"It will be time enough to consider the constitutionality of such legislation when we must do so. The present case does not require the court to declare the full extent of the power that Congress may exercise in the regulation of commerce among the States. We may, however, repeat, in this connection, what the court has heretofore said, that the power of Congress, to regulate commerce among the States, although plenary, can not be deemed arbitrary, since it is subject to such limitations or restrictions as are prescribed by the Constitution. This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument."

Obviously, Mr. Justice Harlan's reference is to the fifth amendment for that is the only other clause of the Constitution which limits the congressional commerce power.

Whether the fifth amendment limits the power of Congress to prohibit the transportation of particular property in interstate commerce depends on the question whether such prohibition amounts to a deprivation of property without due process. This brings up the questions: to what sphere has the individual a right to ship goods in interstate commerce and what amounts to deprivation without due process?

The exact meaning of this "due process" clause like similar clauses in the fourteenth amendment and in the State constitutions has never been definitely settled. Comparatively few cases have arisen which involve the meaning of this clause in the fifth amendment. Numerous cases, however, have been decided involving the effect of the similar due process clause in the fourteenth amendment. These cases indicate that the due process limitation is intended to protect the individual from an arbitrary exercise of the powers of government, from legislation which interferes with private rights or interests to an extent that shocks existing conceptions of what is fundamentally fair and just under the circumstances to which it applies.

The following definitions have been pronounced by the Supreme Court:

"Due process of law within the meaning of the (fourteenth) amendment is secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government." Giozza *v.* Tiernan (148 U. S., 657, 662 [1893].)

To the same effect see Yick Wo *v.* Hopkins (118 U. S., 356, 367 [1886]); Leeper *v.* Texas (139 U. S., 462 and 468 [1891]); Yesler *v.* Commissioners (146 U. S., 646, 655 [1892]); Duncan *v.* Missouri (152 U. S., 377, 382 [1894]).

The words "due process of law," "were intended to secure the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice." Bank *v.* Okely (4 Wheat., 235, 244 [1819]); Twining *v.* N. J. (211 U. S., 78, 101 [1908].)

"The great purpose of the requirement is to exclude everything that is arbitrary and capricious in legislation affecting the rights of the citizen." Dent *v.* W. Va. (129 U. S., 114, 124 [1889]).

The due process clause in the fifth amendment is identical with that in the fourteenth amendment. This pledge of individual rights and liberties is in the Constitution in a two-fold sense: in the fifth amendment it is a limitation upon the powers of the National Government; in the fourteenth amendment it is a limitation upon the powers of the States. Davidson *v.* New Orleans (96 U. S., 97, 101 [1878]); Ballinger *v.* Davis (146 U. S., 314, 319 [1892]). Indeed, the Supreme Court has said that these two clauses bear the same construction in regard to the meaning of the phrase "due process of law." Slaughter House Cases (16 Wallace, 26, 80 [1872]); Tonawanda *v.* Lion (181 U. S., 389, 391 [1901]); Twining *v.* N. J. (supra).

Therefore it may be argued, though it has never been directly decided, that an act of Congress which excludes an article from interstate commerce without apparent reason violates the requirements of the "due process" clause. Assuming that prohibition without any reason would be a violation of due process, the question becomes one of reasonableness of the prohibition or transportation of a particular article. This restriction on prohibition is implied by the Supreme Court's language in United States *v.* Marigold (9 Howard 560 [1850]), where it was said that any article of commerce "may be partially or wholly excluded when either measure shall be demanded by the safety or by the important interests of the entire nation."

It has always been an established constitutional principle that all rights of life, liberty, and property are held subject to regulation by the sovereign in the interests of the public welfare. The interests of the individual must yield to the higher interests of the community. So long as such regulations are reasonable they may interfere with private property without violating the due process clause. It is now well settled, so well that citation of cases is unnecessary, that a State statute containing reasonable police regulation, though it interferes with personal or property rights, does not constitute a deprivation thereof without due process and is therefore constitutional, despite the due process clause of the fourteenth amendment.

In Chicago Railroad Co. *v.* McGuire (219 U. S., 549, 567 [1911]), it is said:

"Liberty implies the absence of arbitrary restraint, not immunity, from reasonable regulations and prohibitions imposed in the interests of the community."

The scope of this power to regulate in the interests of the public good, commonly called the police power, has never been definitely determined. For many years the decisions of the Supreme Court seemed to restrict it to laws passed for the protection of the health, morals, or safety of the public. But later decisions have given it a broader scope and, at the present time, it may properly be said to include all matters which are immediately necessary or advantageous to the welfare of the community.

In the case of McLean *v.* Arkansas (211 U. S., 539 [1909]), the court held constitutional a State statute requiring coal to be weighted before screening, as a basis for determining miners' wages. In the opinion in this case, the principles which underlie the validity of legislation passed presumably in the exercise of the police power were stated as follows (p. 547):

"It is then the established doctrine of this court that the liberty of contract is not universal, and is subject to restrictions passed by the legislative branch of the Government in the exercise of its power to protect the safety, health, and welfare of the people.

"It is also true that the police power of the State is not unlimited and is subject to judicial review and, when exerted in an arbitrary or oppressive manner, such laws may be annulled as violative of rights protected by the Constitution. While the courts can set aside legislative enactments upon this ground, the principles upon which such interference is warranted are as well settled as is the right of judicial interference itself. The legislature being familiar with local conditions is primarily the judge of the necessity of such enactments. The mere fact that a court may differ with the legislature in its views of public policy, or that judges may hold views incon-

sistent with the propriety of the legislation in question affords no grounds for judicial interference unless the act in question is unmistakably and palpably in excess of legislative power."

In Jacobson *v.* Massachusetts (197 U. S., 11 [1905]), in which a State compulsory vaccination law was held constitutional, the court said (p. 31):

"If there is any such power in the judiciary to review legislative action in respect of a matter affecting the general welfare, it can only be when that which the legislature has done comes within the rule that if a statute purporting to have been enacted to protect the public health, the public morals, or the public safety, has no real or substantial relation to those objects or is beyond all question a plain palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge and thereby give effect to the constitution."

In Chicago Railroad Co. *v.* McGuire (supra), in which it was decided that a State may define the liability of a railroad company to its employee for negligence and may constitutionally prohibit contracts limiting liability for injuries made in advance of the injury, the court said (p. 569):

"The scope of judicial inquiry in deciding the question of power is not to be confused with the scope of legislative considerations in dealing with the matter of policy. Whether the enactment is wise or unwise, whether it is based on sound economic theory, whether it is the best means to achieve the desired result, whether, in short, the legislative discretion within its prescribed limits should be exercised in a particular manner are matters for the judgment of the legislature and the earnest conflict of serious opinion does not suffice to bring them within the range of judicial cognizance."

In the recent case of Noble State Bank *v.* Haskell (219 U. S., 104 [1911]), in which the bank depositors' guaranty fund act of Oklahoma was held constitutional as an exercise of the State's police power, Mr. Justice Holmes defines the scope of the police power as follows (p. 111):

"It may be said in a general way that the police power extends to all the great public needs. It may be put forth in aid of what is sanctioned by usage, or held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare."

A reasonable police regulation is, therefore, not a violation of the due process clause in the fourteenth amendment. A police regulation will not be held to be unreasonable and therefore unconstitutional unless it is an arbitrary and oppressive interference with personal or property rights without that justification which arises from existing conditions detrimental to the public health, safety, morals, or welfare to the betterment of which it bears some substantial relation. If this be the test which determines the constitutionality of an exercise of the State's police power to legislate for the common good, notwithstanding the guaranty of due process contained in the fourteenth amendment, we may confidently assert that a test not less favorable to its constitutionality will be applied to a congressional exercise of the commerce power in the interest of the common good notwithstanding the due process clause of the fifth amendment. In other words, the test to be applied to determine what is due process under the fifth amendment is no more strict than that applied to the determination of the same question when it arises under the fourteenth amendment. The police power of the State is either a general inherent power of the sovereign government without expression in the State constitution or it is an exception to the limitation contained in the due process clause engrafted on that limitation by judicial decision. The power of Congress to regulate interstate commerce in the interest of the public welfare, if a police power at all, is part of the express power delegated by the Constitution to Congress. In the determination of the effect of the due process clause on the exercise of this power to legislate for the public good, it is not to be expected that the courts will confine the power of Congress, which is express within more narrow limits than the power of the States, which is general, inherent, or the result of an exception engrafted by judicial decision upon a constitutional limitation.

Further, Congress in the exercise of the power to regulate interstate commerce may either regulate or prohibit that commerce not arbitrarily or unreasonably, but nevertheless freely and effectively when conditions detrimental to the public welfare reasonably call for some regulation. The congressional action in such case will be set aside as unconstitutional only when clearly unreasonable and arbitrary. As the Supreme Court has said with reference to the exercise of the State's police power:

"The mere fact that court may differ from the legislature in its views of public policy or that judges may hold views inconsistent with the propriety of the legislation in question affords no ground for judicial interference unless the act in question is unmistakably and palpably in excess of legislative power."

The effect, therefore, of the fifth amendment on the congressional commerce power is simply to authorize the individual to assert his constitutional guarantee of due

process, to restrain the enforcement of regulations of interstate commerce which are wholly arbitrary and unreasonable. It does not affect the validity of reasonable regulations substantially related to the betterment of evil conditions existing in the nation. It is impossible to lay down in advance any fixed rules which will enable us in all future cases to separate the reasonable from the unreasonable regulation. Every regulation must stand or fall on its relation to the common welfare under all the circumstances existing at the time of its enactment. To him who asks for the application of this general argument to suppositious cases, as, for example, whether Congress could prohibit the passage of sound wheat from Minnesota to Wisconsin, we can only reply in the words of Mr. Justice Harlan in the Lottery Case:

"It will be time enough to consider the constitutionality of such legislation when we must do so."

Its constitutionality will depend upon its reasonableness and its reasonableness will depend on the existence or nonexistence of conditions which justify this interference by Congress with the individual's right to find for his product a market in interstate commerce.

It remains to apply this general principle to the proposed prohibition of interstate commerce in the products of child labor. Does such a prohibition bear such substantial relation to the public health, the public safety, the public morals, or the public welfare as to make it a reasonable regulation of interstate commerce in the interest of the common good, or is it an unreasonable, arbitrary interference with the right to find and use an interstate market, without that justification which arises from existing evil conditions toward the betterment of which it may reasonably be expected to contribute?

VI. The Prohibition of Shipment in Interstate Commerce of the Products of Child Labor Is a Reasonable Exercise of the Congressional Commerce Power in the Interest of the Public Welfare.

The preceding sections of this memorandum establish the proposition that the commerce clause of the Constitution authorizes Congress to prohibit the transportation in interstate commerce of specified persons or things; that Congress possesses power similar to the State's police power to regulate or prohibit commerce in the interest of public health, safety, welfare, or morals; that in the exercise of this police power under the commerce clause Congress is limited only by the provision of the fifth amendment to the Federal Constitution, which prohibits the taking of property or liberty without due process of law; and that despite the fifth amendment Congress may enact valid police regulations if they be reasonably necessary to remedy existing conditions detrimental to the public good. The Keating-Owen bill, as introduced by Congressman Keating on January 7, 1916, provides that no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate commerce the product of any mine or quarry situated in the United States which has been produced, in whole or in part, by the labor of children under the age of 16 years; or the product of any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States which has been produced, in whole or in part, by the labor of children under the age of 14 years or by the labor of children between the age of 14 years and 16 years who work more than eight hours in any one day or more than six days in any week or before the hour of 7 a. m. or after the hour of 7 p. m.

Congress, by enacting this bill would prohibit the shipment in interstate commerce of certain products of child labor. That Congress, under its power to regulate interstate commerce, may prohibit shipment in that commerce, has been proved. In order to sustain the constitutionality of the Keating-Owen bill it is, therefore, only necessary to show that the prohibition of shipment of these child-labor products bears such a relation to the public health, safety, welfare, or morals as to bring it within that class of police legislation which Congress may pass under the commerce clause despite the fifth amendment.

The Supreme Court has held that a regulation of interstate commerce by Congress may have the quality of a police regulation; that the powers "conferred on the Nation are adapted to be exercised * * * to promote the general welfare, material and moral." As we have seen Congress will not be held to a stricter test under the fifth amendment as to the validity of police regulations of commerce than that applied under the fourteenth amendment to police legislation of the States. State legislation directly prohibiting the employment of children in the occupations and under the circumstances stated in the pending bill has been held valid police legislation under the fourteenth amendment. The employment of children of tender years in dangerous or confining occupations has long been recognized as a serious evil and a menace to the future of the race. As early as 1879, 21 States had laws regulating or prohibiting

it and this number has constantly increased. (See Progress and Uniformity in Child Labor Legislation, by William F. Ogburn, Columbia University Studies in History, Economics, and Public Law, vol. 48, No. 2, 1912.) The courts of last resort in a majority of the States have held that State legislatures may, under the police power, fix an age limit below which children may not be employed, the minimum age limit upheld by these decisions ranging from 12 years upward. (See note in U. S. Supreme Court Rep., 53 L. ed., 245, 246.) The preponderant moral sentiment of the community is against child labor. It is inconceivable that any court would hold that such legislation has no real or substantial relation to the protection of the health and morals of the people. As a matter of fact, the Supreme Court has recently held that State child labor legislation is a valid exercise of the State police power. (Sturges Mfg. Co. *v.* Beauchamp (1913), 231 U. S. 320, 325.) In the opinion in that case Mr. Justice Hughes said:

"As it was competent for the State in securing the safety of the young to prohibit such employment altogether, it could select the means appropriate to make its prohibition effective and could compel employers at their peril to ascertain whether those they employed were in fact under the age specified. The imposition of absolute requirements of this sort is a familiar exercise of the protective power of government."

The Supreme Court will take notice of the fact that in the greater part of this country child-labor legislation has already been enacted and upheld as a reasonable exercise of the police power. In the Coppage *v.* Kansas case the Supreme Court, in holding unconstitutional legislation forbidding discharge of union men, referred to the fact that such laws had been generally condemned as unconstitutional in the several States. These State child-labor statutes are ineffective to prevent interstate commerce in products of child labor, but their universal approval as valid police regulations is persuasive evidence that they are reasonable regulations of rights of property and of liberty of contract.

A State in the exercise of its police power may prohibit the employment of child labor in the manufacture of goods within the State, but it has not the power to complete its policy by prohibiting the importation from other States of the products of child labor. It is well established that a State is powerless to exclude the introduction and sale within its borders, in original packages, of recognized articles of interstate commerce (Brown *v.* Maryland (1827), 12 Wheat., 419; Leisy *v.* Hardin (1890), 135 U. S., 100). Such a regulation interferes with interstate commerce and, consequently, is unconstitutional. It is true that in the exercise of the police power in protecting citizens against fraud a State has been permitted to make certain regulations which place no burden upon commerce among the States (Plumley *v.* Massachusetts (1894), 155 U. S., 461 (prohibition of the sale of oleomargarine which is in imitation of yellow butter); Crossman *v.* Furman (1904), 192 U. S., 129 (artificially colored coffee beans); Compagnie Francaise *v.* Louisiana Board of Health (1902), 186 U. S., 380 (persons coming from districts infected with contagious or infectious diseases); but as child-labor products are not inherently dangerous to the citizens of the State, a direct prohibition by a State of the right to sell them within its borders would be an interference with interstate commerce, and consequently void. (People *v.* Hawkins (1898), 157 N. Y., 1; People *v.* Haynes (1910), 198 N. Y., 622; Opinion of the Justices (1912), 211 Mass., 605.) In each one of these cases the State statute provided that goods manufactured by convict labor should be stamped so as to indicate the same. These laws applied alike to goods manufactured within and without the State. The courts in each case held the statute unconstitutional as an unlawful interference with interstate commerce. In People *v.* Hawkins the court said (p. 17):

"A citizen of this State who happens to buy goods made in a prison in Ohio has the right to put them upon the market here on their own merits, and if this right is restricted by a penal law, while the same goods made in factories are untouched, such a law is a restriction upon the freedom of commerce, and the objection to it is not removed by the fact that it may have been enacted in the guise of a police regulation. The validity of such a law is to be tested by its purpose and practical operation without regard to the name or classification that may have been given to it."

In Opinion of the Justices (*supra*) the court declares (p. 606):

"The present bill, in our opinion, goes beyond a lawful exercise of the police power in its direct effects upon interstate commerce. Protection of domestic laborers, manufacturers or merchants against the lawful competition from other States by means of discriminating regulations upon goods manufactured in other States is an immediate interference with interstate commerce. * * * One who purchases prison made goods in other States has a right as complete and extensive to sell them upon their own merits as he has to sell private-made goods of like nature."

The same objections would be successfully urged against a statute prohibiting the sale within the State of child labor products imported from another State. The pro-

hibition of the sale of such products of child labor would not further the interests of the citizens of the State except as regards competition and such legislation has been held, in a long line of decisions, to amount to an unlawful interference with interstate commerce. (Welden *v.* Missouri (1875), 91 U. S., 275: Walling *v.* Michigan (1886), 116 U. S., 446: Minnesota *v.* Barber (1890) 136 U. S. 313: Brimmer *v.* Rebman (1891) 138 U. S. 78: Voight *v.* Wright (1891), 141 U. S., 62; Collins *v.* New Hampshire (1897), 171 U. S., 30: Dosier *v.* Alabama (1910), 218 U. S., 124.)

In Railroad *v.* Husen (1878), 95 U. S., 465, 472) it is said:

"While we unhesitatingly admit that a State may pass sanitary laws, and laws for the protection of life, liberty, health, or property within its borders; while it may prevent persons and animals suffering under contagious or infectious diseases, or convicts, etc., entering the State; while for the purpose of self-protection it may establish quarantine and reasonable inspection laws, it may not interfere with transportation into or through the State beyond what is absolutely necessary for its self-protection."

It may be contended that a State might prohibit the sale of all products of child labor by a lawful exercise of the taxing power. While it is true that the original package rule does not apply where there is a general tax laid upon property which has reached its destination (Brown *v.* Houston (1885), 114 U. S., 622), or a tax upon the sale of articles within the State which were not brought from a foreign country (Woodruff *v.* Parham (1869), 8 Wall., 123), nevertheless such a tax must be for a public purpose (Loan Association *v.* Topeka (1875), 20 Wall., 655; Lowell *v.* Boston (1873), 111 Mass., 454). Thus in the exercise of its taxing power the State is limited by the due process clause in so far as the tax must be for the benefit of the community. A prohibitory tax on the products of child labor would not be valid, therefore, unless a direct prohibition of the sale of such products could be sustained, and it has been shown that such a prohibition as applied to goods imported from other States would constitute an interference with interstate commerce because not being for a public purpose it is not within the police powers of the State (People *v.* Hawkins and cases cited above).

Even though it be conceded that the State, by the exercise of its police power, could prohibit the sale of child-labor products after such products are no longer part of interstate commerce, or could, under the power to levy a general property tax, place a prohibitory tax upon them, such measures would be absolutely unenforceable. The State has no method of determining what imports from other States are manufactured by child labor, because the goods themselves show no traces or marks of it. In order to effectively enforce such a law it would be necessary for each State to place an inspector in every mine, quarry, and manufacturing establishment in the United States. This method is both impracticable and illegal. No State could afford to employ the necessary number of inspectors, and even if this were done the act authorizing the inspection in other States would be of doubtful constitutionality, as it is settled that State laws have no extraterritorial effect, each State being supreme within its sphere (Buckner *v.* Finley (1829), 2 Pet., 586; Bank of Augusta *v.* Earle (1839), 13 Pet., 519; O. & M. Ry. *v.* Wheeler (1862), 1 Black., 286). Therefore it is obviously impossible for one State to prohibit the importation from other States of the products of child labor. Every means of effectively stamping out this national evil has been taken from the States, and the only possible method of effecting the complete prohibition of child labor is by national control. In prohibiting the interstate shipment of such products Congress is exercising its power over interstate commerce to advanee the public welfare by supplementing and making effective the police legislation of the States.

As has been pointed out in an earlier part of this brief, the Constitutional Convention took from the individual States the power to prohibit importations and must have intended to lodge that important power in the only agency to which power over interstate commerce was given, viz, Congress. It is not unfair to say that the Convention intended that Congress should protect by uniform regulation the States which were thus rendered impotent to protect themselves. As a matter of fact, considerable opposition to effective child labor legislation in the various States has been founded on this very fact—that the State can not exclude the products of child labor manufactured in another State. The manufacturers of a State which has enacted advanced child labor legislation are at a disadvantage in competition with manufacturers of adjoining States having no such legislation because of the latter's unrestricted privilege of shipping their products in interstate commerce. Hence, there can be no effective prohibition of child labor and the necessity of congressional regulation becomes apparaent.

Fortunately the reasonableness of a prohibition of shipment of child labor products does not depend solely on general argument. Similar prohibitions have been upheld by the Supreme Court as reasonable exercises of the commerce power in the interest of

the public welfare. In the Lottery cases the Supreme Court held constitutional the act of Congress prohibiting shipment in interstate commerce of lottery tickets and literature. In the White Slave cases the court held constitutional the act of Congress prohibiting transportation in interstate commerce of women and girls, or inducing them to travel therein, for immoral purposes.

Admitting the force of all these precedents for police regulations affecting interstate commerce, the opponents of the pending bill will seek to distinguish them by pointing out that in every previous instance the prohibition of transportation has had for its purpose the protection of the consumer, has aimed to prevent the carrying through interstate commerce of the objectionable person or thing to the place or the person where its harmful effects are to be accomplished. Whereas in the case of the pending legislation the prohibition is aimed not at the protection of the consumer but at the protection of the producer, not the community which uses the products of the labor of children but the community in which such children reside.

The fact that much of our previous legislation under the commerce clause has been confined to protection of commerce for the consumer is merely accidental. Even the pending legislation may have the ultimate effect of protecting the consumer. The amount of benefit of protection to the consumer is immaterial; the very fact that there is any such benefit or protection is sufficient. The prohibition of transportation in interstate commerce of the products of child labor may well be expected to improve the quality of the goods sold in interstate commerce. It is reasonable to presume—at least the courts can not override a determination by Congress that it is reasonable to presume—that goods manufactured by persons of more mature age will be of higher quality and more substantial value than if manufactured by children under fourteen. If Congress believes that the prohibition of transportation of the products of child labor will tend to improve the quality of articles sold in interstate commerce as well as to protect the health, morals, and welfare of the public, surely this is not such a culpable abuse of the congressional discretion as to warrant the court's setting aside of the congressional action.

A bill introduced in the present Congress by Congressman Adamson, chairman of the House Committee on Interstate Commerce, illustrates the relation of this kind of regulation of commerce to the protection of the consumer. Congressman Adamson's bill prohibits shipment in interstate commerce for purposes of slaughter of bull calves less than 2 years old or of heifers less than 7 years old. Obviously this is not a health measure. These ages have no relation to the value of the meat as food. The only relation of this legislation to the protection of the consumer is that it protects the ultimate supply. It protects the ultimate supply of bulls and heifers; while the pending child labor bill protects the ultimate supply of men and women.

The distinction between protection to consumer and producer is founded upon the narrow view of the police power which would make it depend upon, not the benefit to the general public, but the benefit of individuals, resulting from such legislation. This is an erroneous view of the power. Prohibition of transportation of lottery tickets was upheld by the Supreme Court, not on the ground of the benefit done to the individual who might be affected to his detriment by the purchase of lottery tickets, but on the ground that the public welfare is benefited to the extent that these individuals are protected against the temptation to lottery gambling. In the same manner legislation limiting hours of labor has been sustained under the police power, not because of the benefit accruing to the individuals whose effort is affected, but because of the benefit derived by the general public from a decrease in the burdensome toil of a large body of its citizens. The important point is that no such legislation would be supported under the police power because a hundred or a hundred thousand individuals were to be protected from some harmful consequence if that harmful consequence did not involve detriment to the public welfare. It is the public welfare, not the welfare of a large number of individuals, which justifies the legislation. Now, if this be true it matters not a bit whether the legislation affects persons to whom goods are carried or persons from whom those goods are carried, provided only that in either case the carriage is incidental to the continuance or the furtherance of conditions which are to the detriment of the public welfare. Take for example the white slave legislation. It is true it prohibits transportation which will protect the morals of individuals who might be affected after transportation; but it is not in the interest of these individuals that such legislation is enacted and upheld. The real justification for such legislation is the establishment of a high standard of morals and the maintenance of that standard by the prevention of a continuance of such transportation.

It is idle to talk about such legislation as aimed to protect the consumer. It is idle to attempt to distinguish it from legislation aimed to protect children from exploitation by greedy employers. The simple fact is that in both instances the legislation is justifiable, if at all, in the interest of developing and sustaining ideals of public

morality and standards of public health and welfare. The prohibition is aimed at the use of interstate commerce to further practices which violate those higher ideals, the realization of which is sought by the community in its law.

What essential difference is there between legislation protecting a few individuals from the harm which may follow their transportation from one State to another when that harm will be detrimental to the public morals, and legislation which will prevent the employment of children of tender years when such employment will be detrimental to the public health and welfare? What is there in the fact that in one case the public welfare is affected by practices which follow transportation and in the other case is affected by conditions which precede transportation, which would justify holding the one prohibition a reasonable exercise of the police power in the public interest and the other an arbitrary exercise of the commerce power?

The argument for the distinction between the consumer and the producer as a test of the constitutionality of congressional police legislation under the commerce clause is not founded on any decision or any language of the Supreme Court. Although the lottery, the pure-food, and the white-slave acts may, as a matter of fact, operate to prevent evil conditions after interstate transportation, the cases holding them constitutional were not decided on any principle or theory either expressly or impliedly so limited. On the contrary, these cases establish a principle which is equally applicable to conditions arising before or after transportation, namely, that Congress for the purpose of protecting the public health, morals, and welfare may regulate interstate commerce to the extent of prohibiting transportation of specified persons or things. In short, the regulations of interstate commerce, as was said in Hoke *v.* United States (227 U. S., 308, 323), "may have the quality of police legislation." In that case it is also said: "It may be that Congress could not prohibit the manufacture of the article in a State, it may be that Congress could not prohibit in all of its conditions its sale within a State, but Congress may prohibit its transportation between the States and by that means defeat the motives and evils of the manufacture." To "defeat the motives and evils of the manufacture" is the very purpose of the pending bill. The evils of the manufacture, namely, the labor of very young children, can be defeated by Congress by prohibiting interstate transportation of the product of that labor. In other words, the use in manufacturing of methods which are injurious to the health, morals, and welfare of the people justifies Congress in prohibiting interstate transportation of the article manufactured in an effort to prevent such evil methods or conditions. It means that evil conditions will not be permitted to thrive by the unrestricted use of the channels of interstate commerce.

Congress, it must be remembered, has no direct regulative control over either the mode of consumption or method of production. The prohibition of transportation of lottery tickets, adulterated or misbranded food and drugs, and of women, was based not on a desire to protect or advance interstate commerce itself, nor was it intended to protect particular individuals from particular harm, but as expressly stated by the Supreme Court, it was an exercise of the commerce power for the protection and advancement of the health, morals, and welfare of the country. If it be true as declared in the Hoke case that the power over commerce conferred on the Nation may be exercised "to promote the general welfare, material and moral," what possible justification can there be for placing the consumer in a peculiar class and granting him the privilege of police protection from the National Government, while denying that protection to the unfortunate producer? It is submitted that from the cases when the regulation of commerce is not for the protection or advancement of that commerce itself (as in the case of transportation of explosive or combustible materials) the only test of constitutionality of the prohibition is this: Is the regulation reasonably designed for the protection of the health, morals, safety, or general welfare of the public? If the law in question survives that test it is within the constitutional power of Congress and it matters not whether the regulation is in the interest of producer or consumer. In a recent unpublished article Prof. W. W. Willoughby, of Johns Hopkins University, one of the leading authorities on the constitutional law of this country, thus expresses his opinion of the soundness of the suggested distinction:

This distinction between conditions of production and purposes or methods of use, of commodities, though a real one, will probably not be held controlling. In neither case has Congress a direct regulative power— over neither the conditions of production nor the mode or use of consumption. If, therefore, in either case the prohibition can be construed to be, in fact, a regulation of interstate or of foreign commerce, neither the ultimate effect nor the legislative intent embodied in the law may be inquired into by the courts. In result, then, it is to be admitted that the lottery case is authority for the doctrine that interstate carriers may be prohibited from carrying, or shippers or manufacturers from sending, from State to State, and to foreign countries, commodities produced under conditions so objectionable as to be subject to control

as to their manufacture by the States under an exercise of their police power or of a character designed or appropriate for use which might similarly be forbidden by law."

If Congress passes the Keating-Owen bill its very enactment will constitute a Congressional declaration that child labor is a national nuisance, that its evil effects on the public health and welfare can not be effectively prevented by individual State action so long as one State refuses to enact the necessary legislation, and that Congressional regulation under the power to regulate interstate commerce is demanded in the interest of the public morals, health, and welfare. What can the supreme court say to such a declaration? Would that court undertake to refute it? And without refutation would it not entirely justify a regulation of commerce to prevent the evils?

Summarizing the previous decisions Mr. Justice McKenna in the Hoke case said:

"Surely if the facility of interstate transportation can be taken away from the demoralization of lotteries, the debasement of obscene literature, the contagion of diseased cattle or persons, the impurity of food and drugs, the like facility can be taken away from the systematic enticement to and the enslaving in prostitution and debauchery of women."

And to this we may add that if for these purposes the facility of interstate commerce can be taken away, then it can likewise be taken away from the exploitation of children of tender years, to the detriment of our future citizenship.

It may be objected that the case of Adair *v.* United States (208 U. S., 161 [1907]) is authority against the constitutionality of the proposed legislation. In the Adair case the Supreme Court held unconstitutional an act of Congress prohibiting certain corporations engaged in interstate commerce from discriminating against members of trades-unions in the employment or discharge of men. The basis of this decision was that the act constituted a deprivation of the liberty of contract without due process of law. The court discussed in great detail the limitations upon congressional control over interstate commerce imposed by the fifth amendment and concluded that the regulation in this act violated the due process clause. That this conclusion is justified and proper is declared by the same court in Coppage *v.* Kansas (236 U. S., 1 [1914]), where a similar statute of the State of Kansas was held to be a deprivation of the liberty to contract without due process of law. In this case the court said (p. 21) "The decision in the Adair case is in accord with the almost unbroken current of authorities in the State courts. * * * It is not too much to say that such laws have by common consent been treated as unconstitutional." For decisions of State courts holding similar statutes not within the scope of State police power see note, volume 52, Lawyers United States Supreme Court Report, page 436.

Mr. Justice Harlan, in the course of the opinion in the Adair case, said that such a regulation of the contract of employment was not a regulation of interstate commerce, as there was no "possible legal or logical connection * * * between an employee's membership in a labor organization and the carrying on of interstate commerce," because the relation "can not have, in itself and in the eye of the law, any bearing upon the commerce with which the employee is connected by his labor and services."

A careful analysis of the Adair case shows that this statement is not the real basis of the court's decision. The decision in the case was based solely on the fact that the act of Congress constituted a deprivation of the liberty of contract without due process of law. In the subsequent case of Coppage *v.* Kansas, where a State statute identical in effect with that involved in the Adair case was declared unconstitutional, the court, discussing the decision in the Adair case, said:

"The court held that portion of the act upon which the conviction rested to be an invasion of the personal liberty as well as of the right of property guaranteed by the fifth amendment."

Many cases in the Federal courts interpreting the effect of the Adair decision put upon it the same construction as that just quoted from the Coppage case. (McLean *v.* Arkansas, 211 U. S., 545 [1909]; Chicago, Burlington & Quincy R. R. Co. *v.* McGuire, 219 U. S., 549 [1911]; Goldfield Consol. Mines Co. *v.* Goldfield, M. U. No. 220, 159 Fed., 500 [1907]; Hitchman Coal & Coke Co. *v.* Mitchel, 172 Fed., 963 [1909]; Zikes *v.* Ore R. & Navigation Co., 179 Fed., 893 [1910]; Irving *v.* Joint Dist. Council U. B. of Carpenters, 180 Fed., 896 [1910].)

But even if this statement of Mr. Justice Harlan in the Adair case be given authoritative effect as a precedent, it must be remembered that in this portion of his opinion the learned judge was dealing not with the limiting effect of the fifth amendment on the power of the courts to interfere with personal or property rights, but with the question what is interstate commerce. In other words, what are the limits of the Federal jurisdiction as distinguished from the State jurisdiction over commerce? That portion of the opinion in which the statement just quoted is contained, is introduced by the following language: "Let us inquire what is commerce, the power to regulate which is given to Congress." The general language made use of by the

learned justice in answering this question is of importance if at all not in a case involving the restrictive effect on the exercise by Congress of a power over interstate commerce which is clearly within the Federal jurisdiction, but only in cases like the employer's liability case where the question is what is interstate commerce and where does the Federal jurisdiction over commerce end and the State jurisdiction begin. Mr. Justice Harlan's general statement is to the effect that the Federal jurisdiction does not run to the point of the making or the terminating of a contract of employment between an interstate carrier and its employee. Even on this point his statement must be regarded as having been qualified by the subsequent cases. But in any event, Mr. Justice Harlan's statement has relation not to the effect of the due process clause in the fifth amendment on an undoubted exercise by Congress of its power over interstate commerce, but to the relationship between the powers of the Nation and the State under the Federal Constitution. This question has been thoroughly discussed under subdivision 4 of this brief.

It is important, however, to note that in the proposed child-labor legislation Congress is not attempting to regulate contracts of employment by virtue of its control over the instrumentalities or agencies of interstate commerce. It does not seek to extend its jurisidiction by directly regulating contracts of employment as was done in the Adair case. So far as the proposed legislation is concerned the employer is free to conduct his business with or without child labor. All that Congress does if it enacts the child-labor bill is to say to the employer that if he chooses to employ children he shall not have the facilities of interstate commerce for the distribution and sale of his product. This is not a regulation of conditions of employment. It is a regulation of the subject matter of interstate commerce with the incidental effect on the conditions of employment. But as has been said, the fact that it has such incidental effect is not material, provided it be established that it is a regulation of interstate commerce.

It was argued in the first employers' liability case (Howard *v.* Illinois R. Co., 207 U. S., 463. 502) that one who engages in interstate commerce thereby subjects all of his business concerns, including his intrastate business, to the regulating power of Congress. This argument was refuted by Mr. Justice White, now Chief Justice, in the sweeping and vigorous language which such a broad claim of congressional power might be expected to inspire. He says:

"To state the proposition is to refute it. It assumes that because one engages in interstate commerce he thereby endows Congress with power not delegated to it by the Constitution; in other words, with the right to legislate concerning matters of purely State concern. It rests upon the conception that the Constitution destroyed that freedom of commerce which it was its purpose to preserve, since it treats the right to engage in interstate commerce as a privilege which can not be availed of except upon such conditions as Congress may prescribe, even although the conditions would be otherwise beyond the power of Congress. It is apparent that if the contention were well founded it would extend the power of Congress to every conceivable subject, however inherently local, would obliterate all the limitations of power imposed by the Constitution, and would destroy the authority of the State as to all conceivable matters which from the beginning have been, and must continue to be, under their control as long as the Constitution endures."

This is the language usually quoted by opponents fo the child labor and similar legislation. It must be remembered, however, that Mr. Justice White is here discussing the question, What is interstate commerce? and is considering the relationship between the National Government and the States. The legislation under consideration and the arguments pertaining thereto involved congressional regulation of the instrumentalities or agencies of interstate commerce and legislative power to directly control those agencies. The question involved was identical to that raised by the language in the Adair case which has just been discussed. The court declares that direct control of intrastate commerce by Congress is an unconstitutional assumption of power. The rebuff to the exponents of any other doctrine was well merited.

The constitutionality of Federal child-labor legislation is not based on any such broad assumption of congressional power. The proposed legislation does not depend on the doctrine that one who engages in interstate commerce thereby subjects his entire business to the regulation of commerce. Rather it depends on the oft-applied principle that the power to regulate the subject matter of commerce includes the power to pass police regulations to promote the health, safety, welfare, and morals of the country. If Congress were proposing to forbid the employment of children in the mining and manufacturing establishments of the country the language of Chief Justice White in the above case would be applicable, but as Congress is only excluding certain articles from the channels of that commerce over which it has undoubted control, this language is of no import. As stated above in the discussion of the Adair

case, the fact that a regulation of interstate commerce in products of child labor may have the incidental effect of discouraging the employment of children in the mining and manufacturing establishments of the States does not affect the question of its constitutionality. As long as Congress is regulating interstate commerce the only limitation upon such regulation is the "due process clause" and not the "interstate commerce clause."

To those who fear to take the step proposed in the Federal child-labor bill because of its possible unconstitutionality, it should be pointed out that no one knows the limits of the power of Congress over interstate commerce. The Supreme Court has from time to time extended the limits of that power beyond preconceived notions of its limitations. If this legislation is desirable, if there exist evils detrimental to the public welfare which it will tend to correct, its enactment by Congress certainly ought not to be delayed merely because of the possibility of its being held unconstitutional by the Supreme Court. No one can say that it is unconstitutional. And if the mere fear of an adverse decision by the Supreme Court were to prevent the passage of legislation by Congress there would be no development of our constitutional law. Who could have said, prior to the lottery cases, that the policy of the lottery legislation would be upheld by the Supreme Court of the United States? Who could have said, prior to the Hoke case, that the antiwhite-slave legislation would be held constitutional? Yet if these acts had not been passed merely because there was a possibility that the Supreme Court would declare them unconstitutional, individual States might still pass drastic laws and yet be helpless to prevent the flourishing of lotteries and the white-slave trade.

This brief began by asking the question, Can Congress use its power to regulate interstate commerce to stamp out child labor in mines and factories? It concluded with the answer, first, Yes; in the same manner that Congress can use the same power to stamp out lotteries, impure foods, prostitution, etc.; and, second, Yes; to the extent that Congress can close the channels of interstate commerce to the products of child labor and thereby prevent the exploiters of child labor finding an interstate market for its products.

The argument in support of these conclusions can not be better summed up than by repeating the language of Mr. Justice Harlan in the lottery cases, changed only by substituting the *underscored* words for words referring to lotteries:

"If a State, when considering legislation for the suppression of *child labor* within its own limits, may properly take into view the evils that inhere in *mining or manufacturing*, in that mode, why may not Congress, invested with the power to regulate commerce among the several States, provide that such commerce shall not be polluted by the carrying of *the products of such labor* from one State to another (p. 356). * * * As a State may, for the purpose of guarding the morals of its own people, forbid all *child labor* within its limits, so Congress, for the purpose of guarding the people of the United States against the 'widespread pestilence of *child labor*' and to protect that commerce which concerns all the States, may prohibit the carrying of *the products of such labor* from one State to another. * * * We should hesitate long before adjudging that an evil of such appalling character, carried on through interstate commerce, can not be met and crushed by the only power competent to that end. We say competent to that end because Congress alone has the power to occupy, by legislation, the whole field of interstate commerce (p. 357). * * * If the carrying of *the products of child labor* from one State to another be interstate commerce, and if Congress is of opinion that an effective regulation for the suppression of *the sale of such products*, carried on through such commerce, is to make it a criminal offense, to cause *such products* to be *shipped* from one State to another, we know of no authority in the courts to hold that the means thus devised are not appropriate and necessary to protect the country at large against a species of interstate commerce * * * which has grown into disrepute and has become offensive to the entire people of the Nation" (p. 358).

The ACTING CHAIRMAN. Is there anyone else to be heard?

STATEMENT OF MR. W. H. SWIFT, OF GREENSBORO, N. C.

Mr. SWIFT. Mr. Chairman, I am secretary of the North Carolina Child Labor Committee and of the South Carolina committee, and I am in the employment of the National Child Labor Committee, and have spent three years in studying and investigating this question.

The ACTING CHAIRMAN. Let me ask you, by way of investigation, are these two associations in North Carolina and South Carolina part of the State government or purely voluntary?

Mr. SWIFT. Purely voluntary, personal organizations, made up of about a dozen people, men and women, in each State who are interested in the subject.

The ACTING CHAIRMAN. You may proceed.

Mr. SWIFT. My work has been done more largely in North Carolina than in South Carolina. I desire to offer to the committee, if they care to look at it, a resolution adopted by the North Carolina Society for Social Service, which is a representative social organization in our State. I will hand it to the reporter.

The resolution is as follows:

NORTH CAROLINA CONFERENCE FOR SOCIAL SERVICE.

[Raleigh, Feb. 13-15, 1914.]

DECLARATION ON CHILD LABOR.

We deplore the exploitation of childhood and the fact that in the employment of young children as wage earners our State is one of the chief offenders.

We indorse the uniform child-labor law, and in particular we demand and will seek for the enactment of such laws as will—

1. Forbid the employment of children under 14 years of age in mills, factories, workshops, stores, hotels, and other similar places.

2. Forbid the working of any child under 16 years of age for more than eight hours in any one day, or on Sunday, or later than 7 p. m. or earlier than 7 a. m. at those places named in No. 1.

3. Forbid the employment of any child under 16 years of age to be worked at any place or occupation declared by the State board of health to be dangerous to life or limb or injurious to health.

4. Forbid the employment of any child under 14 at any work during the hours when the public school is in session.

5. Forbid the employment of any child under 14 as messenger boy in cities and towns of more than 5,000 inhabitants, and forbid the employment of any child under 16, preferably 18, as messenger boy after 10 p. m. or before 7 a. m. in cities and towns of more than 5,000 inhabitants.

6. Forbid the employment of any child under 16 at any of the places named in No. 1, except with a permit issued in a regular way after evidence of age has been offered.

7. We favor the passing of such laws as will place the enforcement of our child-labor legislation under the department of labor and printing and will specifically charge the commissioner of labor and printing with the duty of enforcing these laws, and of making all necessary rules and regulations, of keeping a record and reporting all children under 16 years of age who are at work, and of making full and accurate reports upon industrial conditions.

In order that the commissioner of labor and printing may do this work we shall ask that he be provided with sufficient money for the employment of as many inspectors as shall be found to be necessary for the enforcement of all laws to the employment of children, and such other laws as shall be found necessary for the protection of the health and the life of all workers.

We recommend that the compulsory educational law be raised to 14 with careful enforcement.

Mr. SWIFT. I also desire to call the attention of this committee to the hours of labor in both North Carolina and South Carolina. In both States the hours of labor are 60.

Senator POMERENE. Per week?

Mr. SWIFT. Per week. In each State this means, so far as my observation has gone, with one or two exceptions, 11 hours a day for five days in the week, with a short Saturday. There is now

pending in the Legislature of South Carolina a bill somewhat modifying the terms of your present law. It is. The last Assembly of South Carolina enacted a bill permitting the employment of persons 14 years of age in factories to work 11 hours a day. It was to go into effect for nearly a year, but when it did go into effect a year ago it was modified a year ago. There was night work in the textile mills in which women and children are generally employed. The custom was to make 66 hours a week, which means 11 hours work per night. I have no information that that custom has been departed from. In South Carolina a child under 14 can not be employed at night work.

Mr. PATTERSON. Mr. Chairman, I was a witness yesterday, and I would like to ask the gentleman the question.

Mr. SWIFT. I will be glad to answer it.

Mr. PATTERSON. I would like to ask whether where the hours were 66 a week, of 12 hours, whether it is actually so that the wages were for a little less in the night work? I do not use night work.

Mr. SWIFT. That is true. My information is that the wages were the same. I found a case or two in which the wages for the night work are a little higher, but the general rule was to make as much in five nights as you would in six days.

Mr. PATTERSON. In my State no child under 16 years of age can be employed at night work.

Senator POINDEXTER. When was that law enacted?

Mr. PATTERSON. That law was enacted in 1911.

Senator POINDEXTER. What State is that?

Mr. PATTERSON. North Carolina.

Senator LIPPITT. Are those laws enforced?

Mr. SWIFT. If you will pardon me, maybe Mr. Patterson knows that we have the same law for night work in North Carolina. In South Carolina, from our investigations and from my observation, the laws are pretty well enforced; at least, there has been a great reduction in the number of children under 12 years of age employed in the mills, as is shown by the report of Commissioner Watson. There are two inspectors whose business it is to travel over the State and look to the enforcement of the law. They are enforcing it better and better each year. I want to say, too, that it may be that right now South Carolina may have a 14-year-old law instead of a 12-year-old law.

Senator SMITH. Is not that bill pending now?

Mr. SWIFT. That was the bill that was pending. It was out of the house and went to the senate when I left there Saturday night. That simply raised the age limit from 12 to 14.

Senator POINDEXTER. Will that prevent the employment of children under 14?

Mr. SWIFT. Yes, sir.

Senator SMITH of South Carolina. Under 14 during the day.

Mr. SWIFT. And under 16 during the night.

Senator SMITH. We want to raise the limit by State legislation to 16 and have inspectors to see that the law is rigidly enforced.

The ACTING CHAIRMAN. What is the minimum age in your State?

Mr. SWIFT. It never has at all been clear what the minimum age is. The law says that no child under 12 years of age shall be employed, with a proviso that no child under 13 shall be employed

except in an apprenticeship capacity, and then only after having attended school four months of the year previous. Up to 18 months ago it was generally accepted that that law meant 12, provided the child went to school; that children who went to school were working in an apprenticeship capacity. I talked with a very large number of mill superintendents and mill directors, and the rule was with them at that time to show by the age certificates, where they had age certificates, that the child was 12 years of age. A great many of them did not have the certificates at all, and unless they have taken them up within the last year, they have not them now. The age certificate showed that each child was 12 years of age. I think that was generally accepted. Lately, however, I wish to say that there seems to have come an understanding that 13 is the age limit for employment. None of these children are apprentices under our code procedure. I know that two of three of our leading manufacturers have given me information that they are now employing no child under 13. I know that also in another mill where I have made inspection, I found no child under 13. I have seen it stated with authority during the past month that 13 is the age limit; so I think within these three years it is coming to be accepted that a child who goes to work as doffer or spinner is not an apprentice, but is a work hand, and, in some cases, in some of our better mills, they are not now hired until they become 13.

Now, I will return to your question. In North Carolina there is practically no enforcement, and so far as I know, has never been any. I have seen very many children under 12 years of age at work in our mills. I have walked through more than a score of mills with a superintendent or a boss, in a very friendly way, and have children pointed out to me from time to time, and we would frequently find three or four or five under 12 years of age, depending somewhat upon the size of the mill.

We have no inspector for the enforcement of the law in our State. Our commissioner of labor is an inspector of mines, but we have very few mines. When it comes to the mills, no authority has been given to him.

The ACTING CHAIRMAN. Has your association made any effort to have inspectors appointed?

Mr. SWIFT. We have. At the legislature, just prior to the legislature of 1911, I had spent several months traveling over the State and most of my business was in a very friendly conference with the manufacturers, and I thought I was getting along nicely, and we came to a sort of agreement between the manufacturers and this association upon what should be done and a bill was drawn which provided for inspection under certain State officers, who were to select the inspector. We introduced that bill, but we could not make progress with it.

Senator LA FOLLETTE. It stuck somewhere?

Mr. SWIFT. Yes, sir; it stuck.

The ACTING CHAIRMAN. Is there any objection to your filing affidavits against those mills or other persons that you came in contact with?

Mr. SWIFT. No, sir; I have not filed the affidavits for the reason that I was working as a private citizen. The State officials are there. We have sent certain reports that we have made to the commissioner

of labor and he has sent them in turn to the different solicitors. That is as far as we have gone. In 1913 another bill was introduced, known as the Weaver child-labor bill which is practically the same as the standard set up in the bill now pending in Congress.

Mr. KITCHIN. I do not want to interrupt you. Have you finished your explanation about the instructions?

Mr. SWIFT. No; I want to go a little further. This bill was offered, and we failed in getting it along. Then Senator Nash, of Oregon County, made a motion on the floor of the Senate for the appointment of inspectors to enforce the law and discover the facts. That did not get along either. Under our present law the county superintendent of public instruction is charged with the duty of reporting to the solicitors of each district violations of the law. I have heard of only two or three reports. I did hear the State superintendent of public instruction say that the county superintendents could not and would not do that work.

Mr. KITCHIN. That is what I want to show, that the superintendent of public instruction is charged with the duty of reporting.

Mr. SWIFT. The superintendent is charged with the duty of reporting, but he is not charged with the duty of looking into the mill and see how things are going. The report must come to him before he sends it out. That is the status of the law, as far as I remember, and I would like any question to be asked me on that subject.

The ACTING CHAIRMAN. Do you mean to say that the law has been so construed that it is his duty to report and not his duty to get information?

Mr. SWIFT. There has been no construction of the law at all.

Senator LA FOLLETTE. Is that the way he construes the law?

Mr. SWIFT. My understanding is, that it is.

Senator LA FOLLETTE. Is that the superintendent of instruction?

Mr. SWIFT. The county superintendent.

Senator SMITH of South Carolina. Without investigation, but who is to report to him?

Mr. SWIFT. Nobody is to report to him. He would have heard of it in passing.

The ACTING CHAIRMAN. He had better get a legal adviser.

Senator POINDEXTER. The whole system seems to have the hookworm. [Laughter.]

Mr. SWIFT. That is a little embarrassing to a citizen of that State. Now, on the other side of it, I want to say to the committee that in looking over this field I have seen a great deal of very good work done in the way of schoolhouses, in the way of erecting Young Men's Christian Associations, and in the way of employment of teachers.

Senator LIPPITT. By whom?

Mr. SWIFT. By the mills. My observation is that those who do the work do not constitute the large percentage of the more than 300 mills in the State.

The ACTING CHAIRMAN. What proportion of them do it?

Mr. SWIFT. I should say not 50 per cent; I do not think it is 40 per cent.

Senator LIPPITT. Do you mean 50 per cent of the mills or 50 per cent of the helpers? It is mostly the larger mills.

Mr. SWIFT. Most of the larger mills are doing some betterment work.

Senator LIPPITT. So if the large mills would do it, it should be a very much larger per cent that got the benefit of it?

Mr. SWIFT. Yes, sir; but I do not think the large per cent of mills do it. Now, whenever you find a mill in a city or town they have school advantages and whatever advantages come to the city. I am speaking of mills that are not located in a city or town. I do not know of very many or not a large number of Young Men's Christian Associations or with very many district nurses. I have made some examination of the educational opportunities offered the children who would come in from the country, and it has led me to the conclusion that the movement from the country to the mill for education does not work that way. As far as I have studied the reports, and if it is desired I will file them later—the family or child of a family that moves from the country to the mill district does not stand as good a chance to get an education as if it had stayed in the country.

Senator LIPPITT. Why do they move from the country to the mill district?

Mr. SWIFT. This is one reason: It is mighty attractive to them—to the people living on the farm, who have been working hard—to know that they can get money; that every two weeks it passes into their hands.

Senator LIPPITT. You say "working hard." Do you know of a child working harder on the farm than it does in the mills?

Mr. SWIFT. I do not think so. It would depend upon what you mean by hard work.

Senator LIPPITT. You employed the expression. You said "working hard."

Mr. SWIFT. They are not rich people; they are very poor folks.

Senator LIPPITT. They come in because they are better paid?

Mr. SWIFT. They think they are. For the time being I think they are. The better pay comes this way: You can not use children very profitably on a farm except for about three months when you are raising cotton or corn and about a month when you are gathering cotton or corn. They can not be used profitably. When a man would carry those to a mill, all the children—say, from the age of 12—would become wage earners, and I think they would get 50 cents or more for the youngest, or may be 75 cents. So the family income looks large.

Senator LIPPITT. And the family gets a larger living, I suppose, as a whole?

Mr. SWIFT. I doubt that, because in the mill——

Senator LIPPITT. I thought you just said their living depended on this?

Mr. SWIFT. No; I do not mean to say that their living would depend on this. They could keep a cow in the country. They generally can not in the mill town; and in the country they could raise a garden, in the mill town they do not. Still, there is not so much difference. I would not say they might not wear better clothes and have better food.

Senator LIPPITT. Better clothes?

Mr. SWIFT. Yes, sir.

Senator LIPPITT. Better houses?

Mr. SWIFT. I think so.

Senator POINDEXTER. But they do not have better sanitary conditions?

Mr. SWIFT. In some cases they do, in some they do not. Not nearly all the mill towns are equipped with water-closets; they have surface closets. Some are cared for better than others, but where so many people are gathered together I doubt whether there would be so much advantage in that respect.

Senator LIPPITT. Has there not been in North Carolina and South Carolina, and in the South generally, a very pronounced movement from the farm to the mill districts?

Mr. SWIFT. I think there has.

Senator LIPPITT. Has there been much movement from the mill districts back to the farm?

Mr. SWIFT. I think there has in some cases. In other cases I have found men who said they could not get back; that they would like to go back, but could not.

Senator SMITH. Is it not your experience of the majority of the mill operators, both in my State and yours, that they come from the mountain section?

Mr. SWIFT. My remembrance is that the figures show that the majority do not come from the mountainous sections.

Senator SMITH. I do not mean from the mountains alone. In North and South Carolina, especially my State, we have very little mountainous district, but the contiguous States, Tennessee and North Carolina?

Mr. SWIFT. I know that very many come from Tennessee, from Virginia, and from the mountains of North Carolina, but I think not this larger per cent.

Senator POINDEXTER. You spoke a while ago of mills that were not in a town or city—small mills. What was the general condition of those mills and how many, proportionally, how many of them are there? Those little mills that are not in the villages?

Mr. SWIFT. These mills would all be in a village. I am not speaking of being in an incorporated town. Every mill constitutes a village.

Senator LIPPITT. But there are comparatively few mills in the Carolinas not in large towns?

Mr. SWIFT. A few are near the larger towns.

Senator LIPPITT. They are most likely to be at the water power, where there are big villages around them; is that not the condition?

Mr. SWIFT. Yes, sir.

Senator LA FOLLETTE. Some of those are the largest mills, are they not?

Mr. SWIFT. Well, take Greenville; that is one of the big towns of South Carolina. They have some large mills surrounding that, and the same is true of Greensboro, and the same is true of Charlotte and Columbia.

Senator SMITH. Take your experience—take my State, for instance—aside from the question involved in this bill as to child labor, the years at which they labor, do you not think that the hours they are employed in an average mill village in South Carolina and the social conditions, if we might call them such, at least the opportunity to associate with their fellows, is an improvement over the

average condition of the tenant farmer? Now, as for the home he lives in, the facilities as to schools—I am not touching on the point of age at which the child goes to work—but considering those things, is not the condition of life more tolerable?

Mr. SWIFT. Taking the poorer tenant farmer, the hours are better. The opportunity for mingling with his fellows, of course, is decidedly better in the mill villages. I can not speak for South Carolina; I can only speak for North Carolina. The chances for going to school after the child gets to the age of 12 are not so good.

Senator LIPPITT. Why is that?

Mr. SWIFT. For this reason: It is the habit in a mill village, while you have your schoolhouse, yet you take the children at 12 or 13 years of age and the whole population, the working population, goes into the mill, and the children do not go to school. In fact, as far as I have investigated it and have knowledge of the conditions, I have not seen enough schoolhouses to accommodate them.

Senator LIPPITT. There must be a great many families out in the sparsely settled communities that have hard work getting to a schoolhouse, anyway?

Mr. SWIFT. We are building many schoolhouses all over the State very rapidly.

Senator LIPPITT. I know you are.

Senator SMITH. Senator LIPPITT, I will correct that, because I want to keep this record straight.

Senator LIPPITT. I was only asking for information.

Senator SMITH. I do not think there is a community in my State that has not got some school facilities. I shall not dwell on efficiency, but they have the opportunity to go to a school hearing, even if they do not go to a teacher. There is a distinction there.

Mr. SWIFT. Permit me, Senator, I think as a whole my State, too——

Senator LIPPITT. Your schools would not quite equal the schools in the mill villages, however?

Mr. SWIFT. They are not so good; the buildings are not so good, but this is the difference. The small children may go to school, but the rule is they do not go to school after they get to about 12 or 13 years of age, and if they undertook to go there would not be any schoolhouse to hold them all.

Senator LIPPITT. How many children on the farms in the country go to school in the farming season?

Mr. SWIFT. You mean go to high school?

Senator LIPPITT. Any schools, during the time the farming season is on?

Mr. SWIFT. I do not think many.

Senator LIPPITT. As a matter of fact, the employment of those children on the farm is for much longer hours than in the mills, is it not?

Mr. SWIFT. I was raised on a farm and lived there all my life in the mountains. I am thoroughly with poor people. My experience was exactly the other way. We did not go to work—I never remember going to work before daylight. The child in the mill necessarily does.

Senator LIPPITT. Did you ever know a mill hand to go to work before daylight?

Mr. SWIFT. I have seen hundreds and thousands.

Senator LIPPITT. In the winter time, though?

Mr. SWIFT. Yes.

Senator LIPPITT. But in the summer time you went to work at daylight on the farm?

Mr. SWIFT. Oh, no; we usually went to work after the dew got off.

Senator LIPPITT. About what time would that be? I am not acquainted with the hours of the dew.

Senator CLAPP. I do not think you are familiar with farming down in that section. I can tell you something about the hours of work there.

Senator LIPPITT. What time does the dew dry off?

Mr. SWIFT. Between 7 and 8 o'clock.

Senator LIPPITT. You never went to work until 7 or 8 o'clock?

Mr. SWIFT. Very rarely. We milked the cows before then.

Senator LIPPITT. But that is not work?

Mr. SWIFT. We did not count that; really it was not work, it was a pleasure and mighty good for me.

Senator LIPPITT. I suppose you started that at half past 5 or 6?

Mr. SWIFT. No—we never got up until after 6.

Senator SMITH. I want to corroborate what he says. I have had pretty considerable experience in my State and I have a right good number of farms. I have superintended them myself or through an overseer and you are correct. Scarcely one out of a hundred on a given farm except perhaps the one that tends the stock will get up a little earlier to get them ready, but those who go to work in the fields come out after the sun is up and they quit about the time the sun is down, with two good long hours at noon.

Mr. SWIFT. Yes, sir; we took those hours at noon.

The ACTING CHAIRMAN. Let me ask you a question which has been suggested to me here. You were speaking about school facilities here in the vicinity of these mills. To what extent do the children avail themselves of those opportunities?

Mr. SWIFT. I think the rule is—we have a compulsory education law between 8 and 12—the rule is for children to go to school, in fact, they have to go to school between those ages in the mill villages and equally so in the country places.

The ACTING CHAIRMAN. For how long a period during the year?

Mr. SWIFT. We are trying to get a six-months school term. Our compulsory period, I think, is four months.

The ACTING CHAIRMAN. How long have you had that?

Mr. SWIFT. We have had that, this is three years.

Senator LA FOLLETTE. But that is only between the ages of 8 and 12?

Mr. SWIFT. Yes, sir.

Senator LIPPITT. Is that law enforced?

Mr. SWIFT. I think it is, sir. I happen to have heard of one case in which it was not enforced. That case happens to be in a mill village.

The ACTING CHAIRMAN. This compulsory period then is below the age at which these children go to work in the mills?

Mr. SWIFT. Yes, sir.

The ACTING CHAIRMAN. And after they go to work in the mills do they attend school at all?

Mr. SWIFT. My observation is they do not.

Senator LA FOLLETTE. Have you investigated with respect to that?

Mr. SWIFT. I have in my hands a paper setting forth an investigation I have made.

Senator LA FOLLETTE. It is very short. Let us have it.

Mr. SWIFT. Yes, sir. This is an investigation made about what is considered the best mill villages in my State. It is the White Oak and Proximity. It is acknowledgedly one of the best. I also made a study for the county in which this mill village is located of the rural-school attendance. This is Guilford County. I find that the percentage of white rural-school enrollment in this county is 78. I find that the percentage of white school attendance is 57. Then I took the mill districts and studied them. I find that the per cent of rural-school enrollment in the mill district is 63 as against 78 for the rural. I have a report here, I think for the State the rural is 69. The average daily attendance for the mill village, the percentage was 44 as against 57. That does not mean that they do not have schools at that mill village. They do have the schools; they have good schools. I know the teachers and I know they are good ones. It means that the children up to the age of 12 are practically all in school and after that practically none are in school.

Senator ROBINSON. Did you devote your entire time to this work?

Mr. SWIFT. I am a lawyer and sometimes have a case in court, but very rarely.

Senator ROBINSON. Most of your time is devoted to this?

Mr. SWIFT. Practically all of it.

Senator ROBINSON. You are employed, I suppose, by some organization?

Mr. SWIFT. I am employed by the National Child Labor Organization.

Senator ROBINSON. And you have been engaged in that work for three years?

Mr. SWIFT. Yes, sir.

Senator ROBINSON. How many mill villages have you inspected during that time?

Mr. SWIFT. I could not tell you. I have not made any count of them.

Senator ROBINSON. Do you not keep a record of the villages where you have made inspections?

Mr. SWIFT. I report.

Senator ROBINSON. But you do not recall now?

Mr. SWIFT. No, sir.

Senator ROBINSON. Did I understand you to state that these figures you have just presented are for what some call a show mill, one of the best?

Mr. SWIFT. I should not like to say a show mill, but a good mill.

Senator ROBINSON. I am not using the term offensively, but it has been used in this hearing.

Mr. SWIFT. It is a good mill village.

Senator ROBINSON. Have you inspected others with a lower standard than that?

Mr. SWIFT. I have made studies for other mill villages.

Senator ROBINSON. What do the lowest show?

Mr. SWIFT. I have a study here made for Caldwell County and Catawba County which I will leave with the committee if it is desired.

Senator ROBINSON. I should like to have it. It will not take you long. I understand it is only figures in comparison with those you have already read?

Mr. SWIFT. In Caldwell County I made a study of four mill districts in which I find the percentage of enrollment is 64, the percentage of attendance 36—this was in 1912 and 1913. I then asked the county superintendent to give me any rural districts in that county so I could make a study of them. I found the percentage of enrollment in the rural district was 88 and the percentage of attendance 59.

Senator ROBINSON. In what rural district?

Mr. SWIFT. In eight rural districts in that same county.

Senator ROBINSON. How were they selected?

Mr. SWIFT. The county superintendent named them; but after I had taken that I then went to the rural report for the county, took all the mill districts, and I found the percentage was 66 for the entire county and 44 average daily attendance. I then made a study for Catawba County. In four cotton mill districts I found that the percentage of enrollment according to the school census was 62 and the percentage of attendance was 38. In 12 rural districts in that county I found the percentage of enrollment was 76 and the percentage of attendance was 50.

Senator CLAPP. Are those mountain counties?

Mr. SWIFT. They are not mountain counties. They are in Piedmont section at the foot of the mountains. One would be part mountain.

Senator ROBINSON. Have you investigated any of the counties in which the percentage of the enrollment and attendance in the mill districts is greater than the rural districts?

Mr. SWIFT. I have not, sir. If you will pardon me, will you just ask that question again?

Senator ROBINSON. I asked if you had investigated any counties in that State where the percentage of enrollment in the mill districts was greater than in the rural districts?

Mr. SWIFT. Where I have investigated the attendance in a mill district as compared with a county I find that the percentage of enrollment and attendance in the country is higher.

Senator ROBINSON. In the county?

Mr. SWIFT. In the country.

Mr. KITCHIN. I suggest to Mr. Swift that he give the school ages to show what ages are included in the school population.

Senator ROBINSON. Yes.

Mr. SWIFT. The school age runs from 6 to 21.

Mr. KITCHIN. That is very important.

Mr. SWIFT. That is important in this way. Out in the country where the children live on the farm they do crop work and they go to school on up to the ages of 18 or 21, but in the mill village, where they can be employed and become a part supporter of the family, they do not go to school.

Senator LA FOLLETTE. After about what age?

Mr. SWIFT. After the age of 12, and these others I have pointed out, 13.

Mr. KITCHIN. Permit me to suggest just this question, if he has any statistics of average attendance and enrollment of the children under 16.

Mr. SWIFT. Those statistics can not be had in my State. We have no record of them. I can not get them.

Senator LA FOLLETTE. I suggest that you leave those full reports with the reporter here, and I ask that they all be incorporated in the hearing.

Mr. SWIFT. If I may, I have one more if I may offer it. This is a study which I have lately made, with the highest respect and friendship for my friend, Mr. Patterson, but it is about the mill village which he owns and has an interest in. I made a study of that. That is Roanoke Rapids. This is taken from the report of the county superintendent of public instruction for 1913 and 1914. If I have made no mistake in my calculation—if I have I want to correct them—I find in that mill village the percentage of enrollment according to the school census was 51, the percentage of average attendance to the school population was 28. I find that the county in which this mill village is located the percentage of enrollment is 75 approximately—it may vary a little—and that the percentage of attendance is 47.

Senator ROBINSON. That shows a very great difference in favor of the rural districts, even as to the mill which Mr. Patterson represents.

Mr. SWIFT. I do not think there can be any question about that.

Senator ROBINSON. When did you begin to make these investigagations with reference to the percentage of enrollment and attendance in these schools?

Mr. SWIFT. I made the investigation on the first one—I made it twice—this is the second one I made—I made this study of these two counties twice—no, only once. I made this investigation after the hearing before the House committee.

Senator ROBINSON. Quite recently?

Mr. SWIFT. Yes, sir; I just wanted to see how that was, and I went back and studied; got it from the report of the State superintendent of public instruction; this book, for the years 1913 and 1914.

The ACTING CHAIRMAN. Is there anything further?

Mr. SWIFT. I should like to add this: I believe from what I have heard that perhaps you have a better report now, Mr. Patterson, than this shows.

Mr. PATTERSON. I think so.

Senator ROBINSON. When was that report made?

Mr. SWIFT. For 1913 and 1914. If I may add a little further—there were two other mountain counties suggested in the hearing. I made a study of those counties. One is beyond the Blue Ridge and one is lying up against the foothills. Alleghany County was mentioned as a county from which children might well move to the mill villages to be educated. I find the percentage of enrollment is 89 in that county, and the percentage of attendance is 62. The other county mentioned was Stokes. That adjoins my county. Some of my wife's people live up there, so I investigated that. I found the percentage of enrollment was 82 and the percentage of attendance was 46. I find further that the percentage of enrollment for the whole of rural North Carolina is 79, mountain, lowlands, and all. The percentage of attendance is 54.

Senator ROBINSON. Have you taken the trouble to verify the accuracy of those reports in any way except just to take them from the book?

Mr. SWIFT. I have checked them over and calculated the percentages. I may have made a mistake in the calculation.

Senator ROBINSON. But what I mean to ask, you do not get your figures at first hand; that is, you do not go into to see yourself and get the figures? You get them from reports of officers?

Mr. SWIFT. No, sir; I get them from the only source I could possibly get them, the report of the State superintendent of public instruction. I beg your pardon, I might go to the county superintendent.

Senator ROBINSON. You might go to the mill district yourself and examine the subject there, and, by taking sufficient length of time, although of course it would be a difficult matter, you might make a very personal investigation. The point I am trying to get at in that connection is this, that school officers, within my knowledge, in many localities frequently swell or diminish their figures in order to make a good showing for the service that is being rendered by the schools, and that might be done by a mill man or by the county superintendent of education. For instance, I have in mind now one school in the Indian service that some of my friends in the Senate and I had occasion to investigate where the rolls were actually padded in order to make it appear that there was a much better attendance than actually was the fact.

Mr. SWIFT. I appreciate that, but there is not the slightest reason why these reports should not be correct, barring mistakes.

Senator ROBINSON. There have been things said during these hearings relative to the sanitary conditions in rural districts and in mill districts, and the subject is quite an interesting one to me, and one I have no personal knowledge of, and I presume that is true of a good many other Senators here. The statement has been made that sanitary conditions in the rural districts in these States are very bad, especially among the tenant class, the white people, that they are poorly housed, poorly fed and overworked, and that for this reason they are moving to the mill districts, where they get more regular pay, better houses to live in, and better food to eat, and not only better educational facilities, but better religious opportunities. Have you made any investigation along that line?

Mr. SWIFT. I have looked at that question and studied it in a broad way.

Senator ROBINSON. I think you answered a question or two about it a while ago by the Senator from Rhode Island?

Mr. SWIFT. Yes, sir.

Senator ROBINSON. As to the reasons why so many moved from the country to the towns to engage in millwork. Of course, the percentage of enrollment in the schools and the percentage of the average daily attendance may be accounted for—the falling off in the mill districts—by the fact that the pupils above the working-age limit, the mill-age limit, are engaged actually in working in the mills practically all the time.

Mr. SWIFT. I think that does account for it.

Senator ROBINSON. But what do you say about the general sanitary conditions that prevail about the mills that you have investigated?

Mr. SWIFT. Some are very good; some are very bad, but no worse, I should say, though, than you might find in a home in a rural community. The only difference is this, that where you have the tenant living on a farm the sanitary conditions do not amount to so much, because there is but one family there, but you have them massed into one village, and then with open closets and many other things you might have, of course, that could become a serious matter, and I have seen the places where it looked very serious to me.

Senator ROBINSON. That is all, Mr. Chairman.

Miss MORRILL. May I ask the witness one or two questions, Mr. Chairman?

The CHAIRMAN. You may.

Miss MORRILL. Mr. Swift spoke about the educational advantages offered by mill owners. I want to know the percentage of the children that took advantage of that education. Is it not true that after the children have worked 11 hours in the mills that they are too tired to take advantage of that education? Is it not true that after working 11 hours a day in the mills that really all they are fit for is to go to bed? Is it not also true that——

Senator CLAPP. You had better give him a chance to answer.

Mr. SWIFT. You have given me so many questions that I can not carry them in my mind. I think I see what you are driving at, and I perhaps should have said I do know of many places where there are night schools. My observation is that no child who stays shut up in a room 11 hours a day under 12, 13, 14, 15, or 16 years of age ought even be permitted to go to school and study, much less to be encouraged to do so. He ought not to go, and I do not think he gets very much good out of it if he does go.

Miss MORRILL. You think it weakens them physically, morally, and mentally?

Mr. SWIFT. I am not a physician, but I would not have my boy do that.

Mr. KITCHIN. Those statements did not include any attendance in night schools, but only in the public schools?

Mr. SWIFT. No; this is only for public schools.

Mr. KITCHIN. It does nor include the night schools?

Mr. SWIFT. No, sir. Pardon me if I say this, though.

Senator ROBINSON. I did not understand that.

Mr. KITCHIN. It did not include any night schools.

Mr. SWIFT. The report I gave on this best mill had no night school.

Miss MORRILL. Is it not also true that colored children in North and South Carolina get a better education than white children? Is it not true that the white children are employed in the mills and that the colored children go to school?

Mr. SWIFT. That is my observation, and a study of the report seems to bear that out.

Miss MORRILL. They often pass each other, the colored children going to school and the white children going to the factory, going to the mills.

Senator LA FOLLETTE. Will you file your report covering all your studies, and I ask that it be incorporated.

Mr. SWIFT. Yes; if I may incorporate them all in one paper.

(Thereupon, at 5 o'clock p. m., the committee adjourned until Friday, February 18, 1916, at 3 o'clock p. m.)

PRODUCTS IN INTERSTATE COMMERCE OF CHILD LABOR.

FRIDAY, FEBRUARY 18, 1916.

COMMITTEE ON INTERSTATE COMMERCE,
UNITED STATES SENATE,
Washington, D. C.

The committee met a 3 o'clock p. m., pursuant to adjournment. Present: Senators Pomerene (chairman) and Clapp.

The ACTING CHAIRMAN (Senator Pomerene). Mr. Swift, I understand you desire to be heard. You may proceed.

STATEMENT OF W. H. SWIFT, OF GREENSBORO, N. C.—Resumed.

Mr. SWIFT. Mr. Chairman, referring to the tabulation of figures which I read yesterday and as bearing on the educational question, I have in this paper added a fact which came out in that study, which is as follows:

A STUDY FROM REPORTS IN THE OFFICE OF THE COUNTY SUPERINTENDENT OF PUBLIC INSTRUCTION, GUILFORD COUNTY, N. C., FOR THE YEAR 1914–15.

Percentage of white rural school enrollment to white rural school census, 78.

Percentage of white rural school average daily attendance to white rural-school census, 57.

The above is for the entire rural county.

Reports from the school districts, including the three cotton-mill villages, Proximity, Revolution, and White Oak:

Percentage of school enrollment to school census in these three mill villages, 63.

Percentage of average daily attendance to school census in these three mill villages, 44.

Added: In the rural schools of Guilford County 18 per cent of the white rural-school population are enrolled above the fifth grade. In the three mill villages, out of a school cer sus of 1,622, 47 children are enrolled above the fifth grade. This is approximately 3 per cent of the school census in these three mill villages. In the three mill villages there were 14 children enrolled in the seventh grade. There is no grade above the seventh in these mill villages.

A STUDY FROM SCHOOL REPORTS IN THE OFFICE OF THE COUNTY SUPERINTENDENT OF PUBLIC INSTRUCTION OF CALDWELL COUNTY, N. C., FOR THE YEAR 1912–13.

In four cotton-mill districts in Caldwell County the percentage of white school enrollment to the white school census was 64.

The percentage of average daily attendance to the white school census for the same districts was 36.

In eight rural districts in Caldwell County the percentage of enrollment to the white school census was 88.

The percentage of average daily school attendan e to the white school census was 59.
For the year 1911–12 the percentage of white rural enrollment for the entire county of Caldwell to the white school census was 66.
For the year 1911–12 the percentage of average daily attendance to the white rural school census of Caldwell County, N. C., was 44.

CATAWBA COUNTY, N. C.—FROM SCHOOL REPORTS, 1912–13.

Study of four cotton-mill districts in Hickory Township, Catawba County, N. C.
Percentage of white school enrollment to white school census in the four mill districts, 62.
Percentage of average daily attendance to white school census in mill districts, 38.
Percentage of white school enrollment to white school census in 12 rural districts in Catawba County, 76.
Percentage of average daily attendance to white school census in the same 12 districts in Catawba County, 50.
Percentage of rural white school enrollment to rural white school census in Catawba County for the year 1911–12, 68.
Percentage of rural white average daily attendance to rural white school census in Catawba County for the year 1911–12, 54.

STUDY OF SCHOOL REPORTS OF ROANOKE RAPIDS, HALIFAX COUNTY, N. C., FOR THE THE YEAR 1913–14.

Roanoke Rapids is a cotton-mill town.
Percentage of white school enrollment to white school census in Roanoke Rapids, 51.
Percentage of white average daily attendance to white school census, 28.
Percentage of rural white school enrollment to rural white school census in Halifax County, 75.
Percentage of rural white average daily attendance to rural white school population in Halifax County, 47.

RURAL NORTH CAROLINA.

Percentage of rural white school enrollment to rural white school census of North Carolina, 79.
Percentage of rural white average daily attendance to rural white school census in North Carolina, 54.
Alleghany County, N. C.—This is a mountain county.
Percentage of rural white school enrollment to rural white school census, Alleghany County, 89.
Percentage of rural white average daily attendance to rural white school census, Alleghany County, 62.
Stokes County, N. C.—This is a semimountain county, being located at the eastern slope of the mountains. It is strictly rural.
Percentage of rural white school enrollment to rural white census, Stokes County, 82.
Percentage of rural white average daily attendance to rural white school census, Stokes County, 46.

Mr. SWIFT. As further bearing upon this question—and I am stating this to make this clear—so far as my investigation goes, the movement to the mill village does not make for general education. In my opinion it works just exactly the other way. Mr. Hickerson, the county superintendent of public instruction of Rockingham County, told me less than a month ago, that at Mayodan, Mr. W. C. Ruffin's mill, the educational facilities in the schools were not nearly so good, and the children were not attending school nearly so well as in Rockingham County. I give this explanation: We already have in those mill villages, frequently some very good schoolhouses. Frequently they are built largely, or in part, from funds contributed by the mill corporation or by individuals connected with the mill. Our country people are building their school houses by local taxation, and I think, while I have not made any detailed study of this, that the sum of the taxation on the mill village would practically amount

to the same as the local taxation for the building of school houses and running the mill schools in the country district.

It is a fact in one mill, which I recall, that the mill contributed $140 to pay the expenses of the teacher. They were opposed to a local tax to extend the school. That mill was, according to my information, at Whitnell, in Caldwell County, N. C.

A question was asked here yesterday as to the church facilities of our people. I do not think it has ever been suggested that we do not have plenty of churches all over North Carolina, and I am quite sure that the same is true with respect to South Carolina. In fact I know that the strength of our religious life lies in the country districts and not in the villages or in the cities. That is well recognized.

The ACTING CHAIRMAN. You mean that the churches that are there now are not usually filled?

Mr. SWIFT. Do you mean in the mill villages or in the country?

The ACTING CHAIRMAN. Well, anywhere.

Mr. SWIFT. I think the attendance at the churches in the country is better than in either the mill villages or cities. That is my observation from some years of study.

I made no study as to the poverty of the mill people except in one place. More than a year ago I studied a chart prepared by the secretary of the Associated Charities of the city of Columbia, S. C., in which he designated the points from which came the principal demands for charity. Except immediately around the city hall, which condition arose through the transients, the mill villages were the places from which most calls for charity came, even including the colored districts which form a part of the city. This is my opinion formed after what study I have given the subject, and what facilities I have had. If it should be the opinion of this committee and of the Congress that children under 14 years of age ought not to be permitted to be employed in our manufacturing establishments, it is my opinion that so far as North Carolina is concerned it will be a good many years before such prohibition will be written into the law. I do not think it will be at all possible to get that enacted at any very early date. If it should be the opinion of this committee that there should be a strict enforcement of any child-labor legislation by special inspectors under a designated department, according to recommendations made by Gov. Kitchin and our other governors, it is my opinion from observation that that can not be had in North Carolina for many years.

The ACTING CHAIRMAN. Why?

Mr. SWIFT. The gentlemen here who are opposing this bill have always opposed it there—opposed that side of it—and I do not think there will be any change in that attitude. That is, of course, an opinion based upon experience with legislatures in that State; thirdly, if it should be the opinion that there should be a limitation of hours of labor to eight for children under 16, I have no sort of idea, I do not believe, that it can be enacted into law, or that it will be enforced in my State.

I think it was Senator Clapp who asked the question, "Why this discussion with reference to the cotton mill?" Now, this has been my experience: When we come to the legislature seeking laws, or the

enactment of laws relating to the employment of children, we meet only one well-defined opposition. That arises from the cotton mills—some in the hosiery mills and others in the spinning and weaving mills. As Mr. Ruffin has said, "We do have some children in the tobacco factories." So far as I know, in two years with the legislature, I have seen no active and have heard of no active opposition on the part of the tobacco manufacturers on this question. I have looked over and studied one tobacco factory. I saw no large number of very small children. I saw two small white boys who appeared to be under 13, and I think five colored children of about the same size. The others were 14 years and over.

If I may be permitted to state on the matter of the widows, Mr. Hollis last year in South Carolina made a study of the number of orphan children and widows in 16 South Carolina mills. He found in those 16 South Carolina mills 5,000 operatives. He found a mill population of 15,000. He found the number of children between 12 and 14, 233. Of these, 52 were the children of widows.

Mr. KITCHIN. What county is that?

Mr. SWIFT. I think it is in the Rock Hill section. The mills are not designated. He has only sent me the abstract. Seventeen were the children of disabled parents. Seven were orphans. The number of families dependent upon the aid of children between 12 and 14 was 72; that is, they were not orphans, but the families were somewhat dependent upon the children. I will ask to have this paper inserted in the record.

(The paper referred to is as follows:)

Report of 16 cotton mills, 5,000 operatives, a mill population of 15,000, taken to be report of Mr. Hollis, of Greenville, S. C.; facts obtained from Judge Joseph A. McCullough, of Greenville, S. C.:

Number of mills	16
Number of operatives	5,000
Mill population	15,000
Number of children between 12 and 14	233
Of these:	
Children of widows	52
Children of totally disabled parents	17
Orphans	7
Number of families dependent upon the aid of children between the ages of 12 and 14	77

Mr. SWIFT. There is, besides the widow, another person in these cotton mill districts that demands attention, and that is the man who has lived out on a farm and who has a family of children growing up. Somehow the word gets to him that he can make more money, or do better, and he comes to believe it, by moving into the mills. It is not rare for that man to go into the mill village, put his children at work, and then become what we know as a "mill secretary"; that is, he is the man who draws the wages and lives off the labor of some older and some younger children. He does practically nothing. There are a great many of those. My observation, however, is that it is becoming not quite so good caste as it was once. But still the law against vagrancy has not been enforced so as to cut out all of these people.

Last year, when we were studying this question I submitted to the physicians in my State six questions, and if I may, I will read the

questions and answers. The first question submitted to the physicians of the State was:

Is it probable that the employment of children under 14 years of age in the mills, factories, stores, and other public or private buildings for 11 hours a day will be injurious either to the race or to the children?

I had 320 replies. Two hundred and ninety said yes; 16 said no; 5 said yes, conditionally; and 9 did not reply.

I asked the second question:

Is there any reason why it should be more injurious for girls than to boys?

I asked that question for this reason, that there is a distinction in some States. In my State the girls are admitted to employment at the same age as boys. In answer to that question, out of 320, 264 answered yes; 45 answered no; 3 answered, conditionally; and 8 did not reply.

The third question was:

In your opinion would it be wise to forbid the employment of any child under 14 in any mill, factory, store, or other similar place?

To that there were 211 answering yes; 61 answering no; 39, yes, conditionally; and 9 did not reply.

The fourth question was:

In your opinion would it be wise to forbid by law the employment of any children under 16 years of age in any mill, factory, store, or other similar place for more than eight hours a day?

In answer to that question 247 said yes; 48, no; 16 answered conditionally; and 9 did not reply.

The fifth question was:

In your opinion would it be wise to forbid by law the employment of any children under 16 in any occupation declared by the State board of health to be dangerous?

In answer to that question there were, yes, 263; no, 28; yes, conditionally, 13; and 16 did not reply.

The sixth question was:

Should the State empower the commissioner of labor to enforce the child-labor laws and inspectors be given him for this purpose?

Answering that there were yes, 264; no, 16; conditionally, 5; not replying, 35.

The ACTING CHAIRMAN. How did you select you physicians? To whom would you address that inquiry?

Mr. SWIFT. I took the list from the report of the State medical society for the year 1912.

When this question came on for hearing, as I remember, one physician came before the committee and stated his opposition to the State legislation which we were attempting to get through. He came from one of the principal cotton-manufacturing towns in the State. There may have been another person whom I do not remember; I do not think there was.

Mr. Chairman, so far as I now know, that is all I have to say.

(Mr. Swift was thereupon excused.)

STATEMENT OF MISS EUNICE SINCLAIR, OF FAYETTEVILLE, N. C.

Miss SINCLAIR. Gentlemen, my report for this afternoon is not in regard to health conditions and social conditions in the mills, but

simply as to the number of children who in the past few months I have found at work in North Carolina. This report was made from material gathered by going from house to house. The information in all cases was given by the parents of the children, and I frequently had reference to the family Bible or family record. I visited 28 mills. Some of those mills were good and some of them were poor, but I think the average represents very well the conditions in North Carolina.

My report was for those children I found under 14 years of age at work in the mills. In case I found a child of 14 who had been working over a year, I reported him also. I found some children 14 years of age who had been working as long as six years. I possibly missed some of the children in those mills owing to my inexperience. I do not think I would miss any in a mill to-day. I have been employed by the Child Labor Committee for the last six months.

Senator CLAPP. Where is your home?

Miss SINCLAIR. Fayetteville, N. C., in the eastern part of the State.

The first mill I visited was the Holt-Williamson Mills in Fayetteville. There I found two children of 14, one of whom had been working three years; three, 13; and one, 12, a total of seven children in that mill.

The ACTING CHAIRMAN. Out of how many?

Miss SINCLAIR. You mean the number of employees in the mill?

The ACTING CHAIRMAN. How many children employed in that mill?

Miss SINCLAIR. I found 7 children under the age, but did not count the number under 16.

The ACTING CHAIRMAN. Well, have you the number of children that were employed in the mill under 16?

Miss SINCLAIR. I have no record except what I made myself in the mill. I went through the mill.

Mr. KITCHIN. Perhaps it would help if she would give the total number of employees in the mill as well as the number of children.

The ACTING CHAIRMAN. Can you give the number of people in the mill?

Miss SINCLAIR. I think I can get that.

The next mill I visited was the Cumberland Mills, near Fayetteville, and I read what I have in my report:

Cumberland Mills village made a rather interesting study. Being segregated as it is, it has developed a positive monarchy, and yet owing to the excellent situation it might be a model mill community. The children under 10 years were allowed to "play" in the factory. "Play" I found to mean assisting the father, brother, or sister. While they were not receiving wages they were permitted to work. James Lovick, whom you find mentioned in the report, was one of these frivolous characters up to a few years ago, when he was indiscreet enough to become caught in a band and narrowly escaped death.

Here I found 2 children of 12, 5 of 15, 12 of 11, 3 of 10, and 2 of 9, making a total of 16 children.

The next mill was the Raeford Power & Manufacturing Co., Raeford, N. C. Here there were 8 children of 14, 1 who had been working as long as a year, 4 children who had worked for 2 years, 2 for 3 years, and 8 for 4 years; making a total of 15 children in that mill.

The next mill was Sanford Cotton Mills, at Sanford, N. C. Here there were 3 children aged 14, 9 of 13, and 3 of 12, making a total of 15 children.

The next mill was the Vass Mill, at Vass, N. C. Here there were 3 children aged 14 who had worked over a year, and 2 aged 13—5 children in that mill.

The next was at Randleman, N. C., the Deep River Manufacturing Co. I spent a half a day there and found 1 child aged 13 and 1 aged 12.

The next was the Ivanhoe Mills, at Smithfield, N. C. One child aged 14, who had worked three and a half years; two children aged 12, one of whom had worked three and a half years and 1 one year; three children at Ivanhoe.

The next was at Smithfield, N. C., the Smithfield Mill. One child aged 14, who had worked two years, and three aged 13, two of whom had worked two years and one three years, making a total of three children at that mill.

The next was the Ethel Mill, at Selma, N. C. Here I found two children aged 14 who had worked two years, one aged 14 who had worked three years, one aged 13, and two aged 12; six children in that mill.

Senator POMERENE. Have you tabulated those figures?

Miss SINCLAIR. Do you mean have I them in another form?

Senator POMERENE. Yes. We do not care to have you go into all of the details of this matter. We would like you to give the result, which will serve the same purpose.

Miss SINCLAIR. In the 28 mills I found 67 children 14 years of age who had been worked over a year; 102 such children 13 years of age; 53 children 12 years of age; and children under 12 years of age, 19. Does that give you the information?

Senator POMERENE. That gives us the information, and whatever merit there is in it we will get that from the sum totals, without going into the details of each. If you care to furnish us a table to be incorporated in your testimony showing the number in each mill, that you can do, and it will serve our time as well.

Miss SINCLAIR. I would like to speak of this mill that I visited at Salisbury, because it brings out the fact that we were discussing, the attendance officer. The attendance officer was the State superintendent and the mill authority was, of course, under his supervision. I went to him and talked to him about the matter and he said he never had occasion to prosecute anybody for not sending a child to school, although there were cases which he refused to give me, or even give me access into the mill. I might explain that one of the mill manufacturers was one of his school committee managers.

The ACTING CHAIRMAN. Now, can you tell us the number of employees in these mills, and the number of children below 14 and below 16?

Miss SINCLAIR. I can not tell you those below 16, because I have not made that investigation. I can give you those below 14 for the 28 mills I visited.

Senator POMERENE. You do not know the number of operatives in all of those mills?

Miss SINCLAIR. I can give that to you. It is not in these reports, but I can make that out.

The ACTING CHAIRMAN. If you care to do that, we will be glad to have it.

(The report referred to is as follows.)

Figures taken from report of commissioner of labor and printing, North Carolina, for 1913, for the 28 cotton mills investigated by Miss Eunice Sinclair, to which is added the number of children found by Miss Sinclair in each mill who were or had been illegally employed.

Name of mill.	Number of operatives.	Number of children employed.	Children illegally employed, as found by Miss Sinclair.
Holt-Williamson	150	20	4
Necronset	294	77	11
Hope Mills	150	20	3
Raeford Power & Manufacturing Co	80	20	11
Sanford Cotton Mills	225	25	5
Vass Cotton Mills	(1)	(1)	1
Deep River Manufacturing Co	459	84	1
Ivanhoe Mill	(1)	(1)	5
Smithfield Mill	(1)	(1)	7
Ethel Cotton Mill	77	12	10
Lizzie Cotton Mill	115	25	12
Selma Cotton Mill	70	(1)	1
Erwin Cotton Mill No. 2	684	136	2
Oxford Cotton Mill	95	(1)	0
St. Pauls Cotton Mill	145	40	6
Bladenboro	175	50	17
Dixon Cotton Mill	137	29	3
Scotland Mill	90	21	5
Waverley Mill	158	23	11
Springfield	45	10	0
Ida Mill	55	15	3
National Mill	(1)	(1)	9
Dresden Mill	(1)	(1)	6
Lumberton Mill	300	(1)	9
Jennings Mill	155	(1)	15
High Shoals	275	81	6
Kesler Manufacturing Co	(1)	(1)	7
Richmond Mill	45	10	0

[1] No report to the commissioner of labor.

Mr. KITCHIN. I would be glad to ask one or two questions that may perhaps throw some light upon the subject. Miss Sinclair, it is lawful in North Carolina to employ children under 13 at the present time, is it not?

Miss SINCLAIR. Yes, sir.

Mr. KITCHIN. Now you have, boys, 11 under 11 years of age.

Miss SINCLAIR. Yes, sir; that means 11.

Mr. KITCHIN. Do you know what mills they were in?

Miss SINCLAIR. Yes, sir.

Mr. KITCHIN. How many mills had those 11?

Miss SINCLAIR. I could not tell you that.

Mr. KITCHIN. I wish you would give us a statement as to that.

Miss SINCLAIR. I will give that statement.

Mr. KITCHIN. Could you give the names of the mills?

Miss SINCLAIR. Yes, sir.

Mr. KITCHIN. And you say that there were six under 10 years of age?

Miss SINCLAIR. Yes, sir.

Mr. KITCHIN. But you do not remember where?

Miss SINCLAIR. No, sir; I will make that out.

Mr. KITCHIN. And there were some, too, that you said were 9?

Miss SINCLAIR. Yes, sir.

Mr. KITCHIN. You do not know whether or not those who were 12 years worked as apprentices to some one else?

Miss SINCLAIR. They were being paid.

Mr. KITCHIN. But you do not know whether they were given employment as helper to some one else or as independent workers?

Miss SINCLAIR. In some cases I do; when they go in as helpers their pay is added to that of their sisters or brothers, or whomever they help.

The CHAIRMAN. When did you make this investigation?

Miss SINCLAIR. In the past six months.

Mr. KITCHIN. And you visited 28 mills and found 19 that appeared contrary to law; that is, under any construction of our law?

Miss SINCLAIR. Yes, sir; I mean under 14.

Mr. KITCHIN. Under 14, of course, it was lawful in North Carolina and under 13 it was lawful?

Miss SINCLAIR. Yes, sir.

Mr. KITCHIN. Provided they were 12 years of age and in an apprenticeship capacity?

Miss SINCLAIR. Yes, sir.

Mr. KITCHIN. So you found in visiting 28 mills 19 children, that it would be, according to your opinion, unlawful to employ?

Miss SINCLAIR. Nineteen children under 12 years of age.

(Miss Sinclair was thereupon excused.)

The following reports were directed to be inserted in the record for the information of the committee.

REPORTS.

SUMMARY OF REPORT ON 28 NORTH CAROLINA COTTON MILLS.

Total number of children under 14 found at work	174
Total number of children under 13 found at work	72
Total number of children under 12 found at work	19
Total number of children under 11 found at work	8
Total number of children under 10 found at work	2
Number of children now 14 employed before they were 13	51
Number of children now 13 employed before they were 12	22
Number of children now 14 employed before they were 12	24
Number of children who were or had been illegally employed	118

In 3 of the 28 mills no children were found illegally employed.

Assuming that these 28 mills investigated present average conditions as to the illegal employment of children, in the 308 cotton mills of North Carolina there would be eleven times as many such children, or 1,298.

HOLT WILLIAMSON MILLS.

Belle Kinlaw, aged 14, has worked one year; appearance, tall, very slight, stoop shouldered, sallow faced.

Lowena Reeves, aged 13; father, F. J. Reeves; worked two months.

Hoyd Bailey, aged 12, has worked three months; father, W. Bailey.

Stanley Tart, aged 10; father, J. A. Tart.

Alex Stewart, aged 14, has worked three years; Morrison Stewart, aged 13; stepfather, H. D. Jones.

Lottie Tims, aged 13, has worked two years; father, Charles Tims.

HOPE MILLS.

Lola Langley, aged 13, has worked two years; mother, Mrs. Dora Langley.

Kelly Deever, aged 12, has worked one year; father, Enoch Deever.

Oliver Cameron, aged 12, has worked three months; aunt, Mrs. Charlotte Autrey.

NECRONSET MILLS.

Alice Autrey, aged 15, has worked three months; mother, Mrs. Charlotte Autrey.
James Lovick, aged 9;[1] father, George Lovick.
Willie Graham, aged 15, has worked two years; stepfather, John Morrison.
Bertha Deed, aged 13, has worked one year; Clude Deed, aged 12;[1] Charlie Deed, aged 9;[1] father, Gentry Dees.
Lee Davis, aged 13, has worked one year; Alice Davis, aged 11;[1] father, A. T. Davis.
Walter L. McLeod, aged 13, has worked three years; Annie McLeod, aged 10;[1] father, Robert McLeod.
Carl Poell, aged 13, has worked three years; Irving Poell, aged 10;[1] stepfather, J. W. Boone.
Dewey Hall, aged 14, has worked one year; mother, Mrs. Mary Hall.
Katie B. Creel, aged 13, has worked one year; Annie M. Creel, aged 11;[1] mother, Mrs. Annie Creel.
John Guiton, aged 16, has worked three years; Lottie Guiton, aged 14, has worked one year; Annie P. Guiton, aged 12, has worked two months; Frank Guiton, aged 10.[1]

Cumberland Mills village made a rather interesting study. Being segregated as it is, has developed a positve monarchy, and yet owing to the excellent situation it might be a model mill community. The children under 10 years were allowed "to play" in the factory. "Play" here defined I found to mean assisting the father, brother, or sister. While they were not receiving wages they were permitted to work. James Lovick, whom you find mentioned in report, was one of these privileged characters up to a few weeks ago, when he was indiscreet enough to become caught in a band, and narrowly escaped death.

RAEFORD POWER & MANUFACTURING CO.

Joe Williams, aged 15, has worked six years; father, C. P. Williams.
Baxter Pervatt, aged 16, has worked four years; father, E. L. Pervatt.
Luther Pervatt, aged 13, has worked three months; father, E. L. Pervatt.
Erie Blake, aged 16, has worked six years; father, J. T. Blake.
Lena Blake, aged 14, has worked two years; father, J. T. Blake.
May Blake, aged 13, has worked two months; father, J. T. Blake.
Mallie Holt, aged 14, has worked four years; father, M. H. Holt.
Lauder Stedman, aged 16, has worked five years; father, J. J. Stedman.
Willie Redwine, aged 14, has worked two years; father, Jesse Redwine.
Annie Sanders, aged 14, has worked three years; father, A. D. Sanders.
Vera Williams, aged 14, has worked one year; father, T. R. Williams.
Willie Norton, aged 13, has worked two months; mother, Mrs. Sallie Norton.
Vera Campbell, aged 14, has worked two years; father, Dave Campbell.
Clyde Campbell, aged 12, has worked three months; father, Dave Campbell.
Lizzie Perkins, aged 12, has worked one year; father, W. L. Perkins.
Dannie Price, aged 13, has worked one year; father, D. J. Price.
Ida Lancaster, aged 13, has worked one year; mother, Mrs. W. L. Lancaster.

SANFORD COTTON MILLS.

Myrtie Lee Love, aged 13, has worked one year; mother, Mrs. Nannie Love.
Cleatis Spivey, aged 12, has worked 1 month; grandmother, Mrs. Nancy Spivey.
Lillie McCougal, aged 13, has worked three months; grandfather, D. J. Robinson.
Eddie Stutts, aged 13, has worked six months; father, J. A. Stutts.
Gladys Stone (boy), aged 13, has worked three months; father, Henry Stone.
Nora Tally, aged 14, has worked six months; father, M. J. Tally.
Forest McBryde, aged 13, has worked two months; father, N. J. McBryde.
Lelia Maynor, aged 14, has worked two years; father, Martin Maynor.
Willie Maynor, aged 12, has worked six months; father, Martin Maynor.
Sadie Clark, aged 13, has worked four months; father, Oscar Clark.
Lillie Clark, aged 12, has worked two weeks; father, Oscar Clark.
Minnie Wilkie, aged 14, has worked four years; mother, Mrs. Artelia Wilkie.
Arn Blalock, aged 13, has worked three months; mother, Mrs. J. S. Blalock.
Lovey Hilliard, aged 14, has worked one year; mother, Mrs. Anna Hilliard.
Lester Harden, aged 13, has worked two months; mother, Mrs. Annie Harden.
Newton Davis, aged 13, has worked three months; mother, Mrs. Delia Davis.

[1] Children allowed to work without wages.

VASS COTTON MILL CO.

Nettie Thomas, aged 13, has worked three months; father, J. R. Thomas.
Harvey Blake, aged 14, has worked three years (three years in High Point and two months in Vass); father, J. R. Blake.
Flossie Odom, aged 14, worked two years in Sanford and has worked six months in Vass; father, Deevy Odom.
Pauline Dowden, aged 13, has worked one year; father, J. B. Dowden.
Annie Rooney McNeill, aged 14, has worked one year; father, M. J. McNeill.

RANDLEMAN, N. C.

Hope Corner, aged 13, has worked one year; mother, Mrs. Ida Corner (father deserted; family unhealthy; struggle to live). Gertie Corner, aged 17, earns $5 to $6 per week; Lillie Corner, aged 15, earns $3 to $4 per week; Jesse Corner, aged 11, in school.

Charles D. McCaskill, aged 12, works in summer at 50 cents per day, goes to school in winter; father, Alec McCaskill, earns $1.50 per day. Other members of family: James McCaskill, aged 8, in school; Edna McCaskill, aged 6; Irene McCaskill, aged 3. House rent, 50 cents per week. Family apparently comfortable.

IVANHOE MILL, SMITHFIELD, N. C.

Maud Edwards, aged 15, has worked four years; receives 50 cents per day; father, John B. Edwards. Family in debt for grocery bill accumulated during three weeks while mill was closed. Mother states that it will require all winter to get rid of this debt while keeping up other expenses.

Ornal Royalls, aged 15, has worked three and one-half years; receives 85 cents per day; Ollie Royalls, aged 14, has worked three and one-half years; receives 85 cents per day; Jessie Royalls, aged 12, has worked three and one-half years; receives 75 cents per day; Mother, Mrs. Annie Royalls. Father killed in lumber mill four years ago. Family moved here shortly after and these three children were put in the mill. Nine in family.

Maude Wallace, aged 12, has worked one year; receives 90 cents per day; mother, Mrs. Mary A. Wallace. Has two older sisters who also work, one receiving $7 and the other $6 per week.

Gertie Parish, aged 15, has worked four years; father, Henry Parish. Gertie earns 75 cents per day; her father $1.25 per day. Seventy-five cents per week is deducted for rent, and there are four children younger than Gertie.

James Monroe, aged 15, has worked three years; earns 75 cents per day; Annie Monroe, aged 13, has worked two years; earns 45 cents per day. Father, J. E. Monroe, works at various trades and farms. Seven children in family; oldest girl and boy earning, respectively, 65 cents and $1 per day; next boy unable to work, and two children younger than James and Annie.

Luther Hall, aged 14, has worked two years; earns 75 cents per day; Minnie Hall, aged 13, has worked two years; earns 60 cents per day. Father, W. C. Hall, earns $1.25 per day. Seven children; oldest boy and girl earning, respectively, $1 and 75 cents per day. (Note that girl 18 makes same wage as boy 14.) Three children younger than Minnie.

Nettie Jones, aged 15, has worked three years; George Jones, aged 13, has worked three years; mother, Mrs. Rebecca Jones. Mother has a struggle to live. After father's death oldest boy ran away, but sends mother $1 per week. Four children younger than George. Mother works in mill several days out of each week.

ETHEL MILL, SELMA, N. C.

Annie Creech, aged 15, has worked five years; father, C. W. Creech. Father unable to work. Two older sisters, one working in telephone office and one in mill; also three children younger than Annie.

Nancy Jones, aged 14, has worked two years; mother, Mrs. S. H. Jones. Has two older sisters working in mill and one brother aged 10.

Raymond Earp, aged 12, has worked — years; mother, Mrs. Willie Earp. There are four children younger than Raymond.

Lizzie Miller, aged 14, has worked two years; Lillie Miller, aged 13, has worked two years; father, Charlie Miller. Father keeps store, and oldest brother, Willie, works in mill; is said to have worked since he was 9 years old. Three children younger than Lillie.

Sallie Bass, aged 15, has worked five years; sister, Mrs. Eddie Earp. Has younger sister aged 7. Mrs. Earp has one child a year old. Mr. Earp works in mill.

Clarence Peden, aged 12, has worked one year; father, Arthur Peden. Father works at trade, older sister works in mill; three children younger than Clarence.

Mabel Corbit, aged 16, has worked five years; stepfather, E. G. Rose.

Earl Rose, aged 16, has worked five years; father, E. G. Rose.

Annie Mabel Rose, aged 14, has worked three years; father, E. G. Rose. Father farms; two boys older than Mabel work in mill, and there are four children younger than Annie Mabel.

LIZZIE MILL, SELMA, N. C.

Novella Ivey, aged 15, has worked four years; McAllan Ivey, aged 14, has worked four years; Bertha Ivey, aged 12, has worked two years; Charles A. Ivey, aged 11, has worked two years; father, J. M. Ivey. Family very poor; one brother victim of tuberculosis. Nine in family and two boarders living in four rooms.

Vaida Stancil, aged 15, has worked four years; James H. Stancil, aged 12, has worked two months; father, Haywood Stancil. Five in family, and father and older sister work.

Arnold Benson, aged 13, has worked one year; Anna Benson, aged 12, has worked one year; Lucy Benson, aged 11, has worked one year; father, Arnold Benson. Six in family; one child younger than these. Father works in mill.

John Micks, aged 13, has worked four years; father, Joe Micks. Only two children; older brother also works. Have three boarders.

Effie Worley, aged 13, has worked two years; father, N. W. Worley. Two children; other being boy aged 10. Father works, and they have two boarders.

Dolly Griffin, aged 12, has worked one year; Willie Griffin, aged 11, has worked one year; father, Rufe Griffin. Four children younger than these. Father works in mill.

SELMA COTTON MILLS.

Ban Eatman, aged 12, has worked one year.

NOTE.—The community is unusually good; homes and social conditions above the average. The superintendent, Mr. Brietz, gave me much assistance in the work.

ERWIN COTTON MILL, DUKE, N. C.

Bertha Hair, aged 13, worked two months during summer; earned 30 cents per day. Oldest of three children. Father, J. A. Hair, earns $1 per day. Rent, 75 cents per week; 3 room house.

Della Byrd, aged 13, worked one month during summer; earned $1.62 per week. Oldest of four children. Father, Jim Byrd, earns $6.60 per week. One boarder. Rent, 75 cents per week.

Jehu Steward, aged 14, has worked nine months in Sanford and two years in Duke. Second of three children. Mother, Tibatha Steward. Rent, 75 cents per week.

Willie C. Moore, aged 14, has worked one year; earning $4.65 per week. Second of seven children. Oldest boy and father, J. C. Moore, work; each earns $1.10 per day. Rent, 75 cents per week.

Daisy Autrey, aged 14, has worked two years—14 months in Fayetteville and 10 in Duke; earned 60 cents per day. Oldest of four children. Father, Chas. M. Autrey, earns $1 per day. Rent, 75 cents per week. Evidently necessary for child to work.

Ruth Ryals, aged 14, has worked two years; earns $1 per day. Oldest of five children. Father, A. D. Ryals. Rent, $1.10 per week; 4-room house.

Walter Page, aged 13, worked two months during summer. Second of six children. Two boarders. Father, P. T. Page, earns $2 per day. Rent, $1 per week.

Kelly Rouse, aged 13, has worked two years; earns 65 cents per day. Younger of two children. Father, J. A. Rouse, earns $1 per day. Rent, $1 per week.

Gervis Nordan, aged 14, has worked eight months. Alton Nordan, aged 13, has worked eight months. Second and third of seven children. Father, J. E. Nordan, earns $1 per day. Caro Nordan, aged 18, earns 60 cents per day. Rent, $1 per week.

Ada Whitman, aged 13, has worked two months; earns 30 cents per day. Second of four children. Father, J. D. Whitman, farms. Rents a 4-room house at $1 per week, jointly with another family, each occupying 2 rooms.

(The following letter explains itself:)

THE ERWIN COTTON MILLS CO.,
Duke, N. C., October 23, 1915.

Miss EUNICE SINCLAIR,
296 Claredon Street, Fayetteville, N. C.

DEAR MISS SINCLAIR: Your letter is received, indicating your desire to return to Duke next week. Before coming, however, will you not kindly write me and give

me the substance of what your report to your committee shall be based on the investigation you have already personally made at Duke? We would be very glad to give you any reasonable assistance in arriving at facts to be properly treated by you pertaining to the condition of our people, etc., and our mill village here; but we are sure you must know that we are naturally interested in the facts being correctly obtained to enable you to intelligently and fairly collaborate and embody in the report that you make to your committee. Will you therefore kindly write me before resuming your work here what your report shall be from the facts already obtained at Duke.

Awaiting your favor with great respect, yours, very truly,

THE ERWIN COTTON MILLS CO.
By THOS. H. WEBB, *Manager*.

(The reply:)

RALEIGH, N. C., *November 4, 1915*.

Mr. THOS. H. WEBB,
Manager Erwin Cotton Mills Co., Duke, N. C.

DEAR SIR: Replying to your letter of October 23, I inclose you herewith a copy of my report of my work at your mill. This, of course, speaks for itself. I should say, however, that there are one or two other matters which came under my observation which I will probably have mentioned in my report after completing my work at your mill. These are:

First. The school facilities. It seems to me that these children ought to have a better building.

Second. The crowded condition of the rooms demand attention.

Third. I was impressed with the fact that in the village life the people seem to lack individual initiative, and whatever is done is done largely by the mill company.

Fourth. Wages seem to be a little better than I have generally found.

Fifth. I found, however, that most families are not saving money to any extent. I found one family that appeared to be in want owing to prolonged sickness.

Sixth. I covered about one-half of the mill village and should like very much to canvass the entire town.

I trust, therefore, that upon reading this letter you will write to me that this may be done with your permission. You understand, of course, that I can not tell what my report will be until after I have finished the work.

I do not know what I will find.

Yours, very truly,

EUNICE SINCLAIR.

NOTE.—I received no reply to this letter.

OXFORD, N. C.

General conditions in Oxford appeared good. The situation of homes is excellent; repairs are kept up and people appear well satisfied. I learned by chance that the mill authorities had been informed concerning my work in Duke and of my probable rounds in the State. It also happened that they knew of my arrival in town and that I was at work there, so I can not be altogether sure that I saw true conditions in the mill. I remarked upon the peculiar dearth of doffer boys and after considerable delay two were produced. I saw no very small children at work. However, it appears from all sources that the mill is exceptional in its management. I do not consider the school facilities good. It is partially supported by the mill and held in a small building erected by them. It is crowded to some extent and they have only two teachers. Mr. R. H. Lewis, secretary, took me over the mill and discussed various phases of the question. Mr. Lewis professes sympathy with the movement and assures us of his cooperation. I visited all the homes as usual and found no children under 13 at work.

ST. PAULS, N. C.

Walter Davis, aged 14 April, has worked one year; earns 50 cents per day. Has two older brothers and one sister who work, and there are five children younger. Father, Edgar John Davis, earns $1 per day.

Susanna Robinson, aged 15, has worked four years; earns $1 a night. Goldie Robinson, aged 13; earns $1 a night. Has worked four years. Gertie Robinson, aged 11, worked six months. Bell Robinson, aged 12, has worked six months; earns 60 cents a night. These children have one older brother who works, earning $1 per night. He is only 16 at present and has been at work for four years. There are two children younger than Gertie and they have one boarder. The father, B. B. Robinson, is a painter. The children worked in Lumberton before moving here. The mother takes much pride in the fact that all have worked at an extremely early age. She

referred to Gertie as "help-hand"; I asked her how she was paid and she said: "Yes, ma'm; she is paid, but she aint on pay-roll. They let her pay go on her sister's for helping her."

Johnnie Sawyer, aged 12 last March, has worked six months; earns 50 cents a day. He has two older sisters who work, and there are four children younger. Father, John Sawyer, earns $1.25 a night.

Carrie May Stubbs, aged 12, has worked ten months; earns about 40 cents per day. Has two older sisters who work and there are four children younger. They have one boarder. Father, J. E .Stubbs, earns $2.50 per day.

ST. PAULS, N. C.

NOTE.—I counted three boys and four girls who gave every indication of being under age. Mr. McDonald, superintendent here, gave me all assistance possible and appeared in sympathy with the child-labor movement. In regard to the Keating bill Mr. McDonald said: "I am in favor of the bill and do not doubt that southern mills can afford to run under such law. I should be glad to see the bill passed."

BLADENBORO, N. C.

Minnie Pittman, age 12 last July, has worked three years; earns 70 cents per day. Riley Pittman, age 14 last March, has worked three years; earns 83 cents per night. These children have one older sister, 16 years old, who works. Their stepfather is an invalid, so the mother, Mrs. David Pait, is head of the family. The stepfather owns the home, so they pay no rent. The mother explained that after death of children's father she had to move to factory in order that the three oldest children might work, and in view of her circumstances the authorities had employed the children before they were of legal age.

David Parker, age 12 last June, has worked one year; earns 60 cents per day. Oldest of four children. Father, J. E. Parker, earns $1.25 per day. Rent, 45 cents per week.

Lether Bowen, age 12 last September, earns 30 cents per day. Lucy Bowen, age 14 last April, earns 50 cents per day. Father, B. R. Bowen, does not work, probably owing to fact that he has five children in the mill. There are two children younger than these and they have four boarders. Rent, 75 cents per week.

Charlie Guiton, age 12 last October, earns 25 cents per day. Youngest of five children, all of whom work. Mother, Mrs. Caroline Guiton.

Hattie Hester, age 14 last January, has worked three years; earns $1.05 per week; second of three children; older sister works; father, B. A. Hester, works "off and on." Rent 45 cents per week.

James Shoe, age 12 last May, has worked two weeks; earns 50 cents per day; third of four children. Has two older brothers at work. Father, J. H. Shoe, earns $2 per day.

Zebulon Pait, age 14 last June, earns 50 cents per day; has worked two years. Robert Pait, age 13 last May, has worked two years; earns 45 cents per day. Lotta May Pait, age 11 last June, has worked "off and on" for two years. Worked last summer, and though in school, now works on Friday nights; earns about 60 cents per night. There are two children younger than Lotta and one older than Zebulon; the latter works, earning 70 cents per day. Father, J. C. Pait, earns $1 per day.

Theodore Thompson, age 13 last June, has worked three years; has two older sisters and one brother at work. There are three children younger than Theodore. Father, B. O. Thompson, does not work.

Grace Bullard, age 14 in November, has worked two years; earns 90 cents per day; has older sister and brother at work. There are three children younger than Grace. Father, W. A. Bullard.

Francis Britt, age 12 in November, has worked irregularly for three years; has older brother at work, and there are four younger children. Father, Joe Britt, earns $1.30 per night.

Mary Dix, age 14 last June, has worked two years. John Dix, age 11 last June, has worked two years; earns 50 cents per night. There are two children older than these who work and two younger who are in school. Father, J. E. Dix.

Ina Ivey, age 13 last July, has worked nine months; earns 60 cents per day. Waylon Ivey, age 11 last April, has worked nine months; earns 30 cents per day. Lloyd Ivey, age 10, has worked nine months; earns 30 cents per day. There are three children younger than these. Father, E. H. Ivey, earns $1.25 per day.

Percy Vause, age 14 in November, has worked eight months; earns 50 cents per day. Minnie Vause, age 13 last June, has worked eight months; earns 60 cents per

day. Two older children are at work, and there is one child younger than these. Father, J. I. Vause, earns $1 per day.

NOTE.—As seen by above report, this mill works a number of young children, but I think this includes all, as I counted only six girls and seven boys under size in the mill at the time of my inspection. The school building is very poor and they have only one teacher. Houses are in very good condition.

DIXON MILL, LAURINBURG, N. C.

Pearl Lockey, aged 14 in May, has worked two years; earns 75 cents a day. Ray Lockey, aged 12 in March, has worked one year; earns 50 cents a day. These children have one older brother at work, and there are five younger. Father is a photographer. Rent, $3 a month.

Johnnie Frazier, aged 13 in May, has worked three months; earns 50 cents a day. Has one younger brother. Father, Ed. Frazier, mends shoes. Family live with grandparents. Rent, $2 a month.

Daniel McFayden, aged 12 in April, has worked one month; earns 50 cents a day. There are three younger children and four older, three of the latter earning $1 a day, and the other 60 cents. Father, Alec McFayden, earns $1 a day. Rent, $2 a month.

Rosa Russ, aged 13 in November, has worked three years; earns 50 cents a day. Had two younger sisters, and there are three older children, two of whom earn, respectively, $1 and 50 cents. Father, J. A. Russ, is merchant. Rent, $2.50 a month.

NOTE.—Here I observed only two girls and one boy who appeared under age. One of the former was distressingly small, however. Living conditions here are very good, and people appear contented.

SCOTLAND MILL, LAURINBURG, N. C.

Arthur Maness, aged 13 in March, has worked two years; earns 50 cents a day. Mother, Mrs. Flora Maness.

Rogers McQueen, aged 13 in July, has worked one month; earns 20 cents a day. Older brother earns 70 cents a day, and there are three children younger than Rogers. The mother is Mrs. Freida McQueen. They rent a three-room house at $2 a month, and have accumulated rather heavy debts.

Naomi Fields, aged 13 in May, has worked six months; earns 50 cents a day. Three older children earn, respectively, 80 cents, $1, and 50 cents a day. There are four younger children. Father, David Fields, earns $1.25 a day. Rent four-room house at $2.50 a month.

Lillie May Sealey, aged 13 in November, has worked four weeks; has older brother who works, and there are three younger children. Father, Charles Sealey, is unable to work. Rent three-room house at $1.75 a month; have recently moved here.

Bonnie Craven, aged 13, has worked three weeks. Walter Craven, aged 12, has worked three weeks here, having worked before in Rockingham Mills. There are two children older than these and three younger. Rent three-room house at $2 a month; have recently moved here.

Belle Woodall, aged 14 in June, has worked three years here, and prior to that in mill at Raeford, N. C.; earns 50 cents a day. Mother, Mrs. Maggie Woodall, asserts that her eldest daughter, Lelia, aged 16, has worked over six years, first in Raeford, then here. Lelia now earns 80 cents a day. There is a younger sister who is mentally deficient. They rent a three-room house at $2 a month.

Rosie Terry, aged 13 in December, has worked one year; earns 50 cents a day; eldest of six children. Father, J. E. Terry, earns $1.50 a day. Rent three-room house at $2 a month.

Major Williamson, aged 13 in September, has worked one year; earns 50 cents a day. Has one younger brother and one older. The latter is married and lives here with his wife, helping to bear the family expenses. Mother is Mrs. H. C. Williamson. Rent three-room house at $2 a month.

Eunice Brigman, aged 14 in November, has worked two years; earns 30 cents a day. Father, R. T. Brigman, is chronic invalid. Has one younger brother in school and an older sister and brother who earn, respectively, 60 cents and 50 cents a day. Mother says they fell so deeply in debt this fall that she was forced to take the little 8-year-old boy into the cotton field, where by picking cotton the two of them earned enough to temporarily relieve the situation. They rent a four-room house at $2.25 a month, and it stands in great need of repair.

Frances Simmons, aged 14 in September, worked nine months at Lumberton mill, and has been employed here for something over a year; earns 50 cents a day. Has one

older sister who works, and there are two younger children. Father, Pink Simmons. Rent three-room house at $2 a month.

Raymond Brinkley, aged 13 in December, has worked "off and on" during past summer. Has three older brothers who earn, respectively, $1.10, 80 cents, and 70 cents a day. There are two younger children. Father, W. M. Brinkley, earns $1.25 a day. Rent three-room house at $2.

Emma Core, aged 14, has worked two years. There are three older children and one younger than Emma. Father, Ellis Gore. Rent three-room house at $2 a month. N. B.—Information given by neighbor.

NOTE.—Mill under same management as Waverly, but not so satisfactory in some respects. The new electric power is the cause of much complaint among operatives, who say it is not properly regulated and that it causes them great trouble. (It has proven highly satisfactory in Waverly.) I counted here six boys and four girls who appeared under 13. The houses in this village leaked almost without exception, and great trouble was caused by falling plaster, etc., though the mill has repairing done every few months. The moral condition is very good, due to the strict surveilance of the authorities.

WAVERLY COTTON MILLS, LAURINBURG, N. C.

Ella Danford, aged 14 in January, has worked two years; earns 75 cents per day. Rosie Danford, aged 13 in October, has worked two years; earned 50 cents per day. Is now recuperating from typhoid, having been unable to work for several months. Father, A. T. Danford, earns $1.25 per day. There are two children younger than these, and one older sister who does not work. An older brother, his wife, and two young children also live with the family. They have a four-room house, which costs them $2.50 per month.

Marvin Russ, aged 12 in January, has worked during summer months of past two years, attending school in winter; earned 50 cents per day. Father, John Russ, works for Standard Oil Co., earning $1.50 per day. There are four children younger than Marvin, but he has an older brother and sister who earn, respectively, $1 and 75 cents a day. They occupy a four-room house at $2.50 per month.

Rosamond Stanley, boy, aged 13 in March, has worked eight months; earns 80 cents per day. Robie Stanley, girl, aged 12 in December, worked during last summer, earning 25 cents per day. Father, J. B. Stanley, keeps a small store. There are four children younger than Robie. Rent four-room house at $2.50 per month.

Jonnie Collins, aged 13, has worked about two years. Father, S. D. Collins. N. B.—Information given by neighbor.

Proter Ward, aged 12, began work one week ago. There are nine children in family, four older and four younger than Porter. The older children all work, averaging about 50 cents a piece per day. Father, J. R. Ward, earns $1.25 per day. Family recently located here. Rent four-room house at $2.50 per month.

Haynes Herring, aged 14, has worked two years; earns 50 cents per day. There are two younger children, and one older boy who earns 75 cents per day. Father, N. E. Herring, earns $1.25. Rent three-room house at $2.00 per month.

Joseph Carlysle, aged 13 in June, has worked one and one-half years; earns 80 cents per day. Curtis Carlysle, aged 12 in October, has worked one and one-half years; earns 80 cents per day. There are three children younger than these. Father, K. S. Carlysle, earns $1.25 per day. Rent three-room house at $2 per month.

Maggie McDonald, aged 12 in March, has worked one year; earns 50 cents a day. Oldest of five children. Father, Fan McDonald, does hauling, etc. Rent three-room house at $2 per month.

Ethel Walters, aged 12 in March, worked two months during summer; earned 25 cents a day. Has one younger sister. Grandmother also dependent upon family. Father, Jack Walters, earns $1.35 per day. Rent three-room house at $2 per month.

Carrie May Tatum, aged 13 in January, has worked one year; earns 60 cents per day. There are two younger children, and one older brother, who earns $1 per day. Father, J. H. Tatum, does shoe repairing. Rent three-room house at $2 per month.

Ada Florence Cassion, aged 13, has worked one month; earns 60 cents per day. There are three younger children, and four older, earning as follows: Marvin, $1 per day; Ruth, $1.05 per day; Emma Iren, 80 cents a day; and Annie Eliza, 60 cents a day. Father, H. L. Cassion, earns $1 per day. Rent four-room house at $2.50 per month.

Daisy Suggs, aged 13 in June, has worked one year; earns 40 cents per day. Father, D. B. Suggs, works "here and yonder," according to mother. Rent three-room house at $2 per month.

Mattie Clarke, aged 13 in December, has worked one year; earns 30 cents per day. Has one younger sister, and a brother aged 15, who has worked three years and is now earning 30 cents per day. Father, Edmund Clarke, does hauling. Rent three-room house at $2 per month.

Erbie Inman, girl, aged 13, has worked one year. Father, R. F. Inman, is a cripple and unable to work. Three older children earn, respectively, $1.05, 75 cents, and $1.25. There are three children younger than Erbie. They rent a three-room house at $2 a month.

NOTE.—This is a thoroughly modern mill. The building is large and light, with good floor space. The houses are comparatively new and in most excellent condition. The employees, almost to a man, declared themselves well satisfied. The mill works too many young children, though I was told by a number of the operators that none under 13 were allowed. In going through the mill I counted five girls and four boys whom I considered less than 13, and it is apparent that I have secured the names and data concerning all these.

RICHMOND MILL, LAUREL HILL, N. C.

This mill has only about 25 operatives at present, and I saw no young children at work. It is a wooden frame building, very low-ceiled, dark, and crowded. The floor was filthy and so worn that I tripped several times in walking through. The homes are absolutely wretched, with roofs leaking, floors falling in, and steps broken down. The people are miserable. I think none stay there who can possibly get away. There appears to be no scale of wages, and what they pay is very low. The immorality among the people is unspeakably gross. Illegitimacy is prevalent in almost every family, and about half of the people are of mixed blood—mulattoes and Croatians. There is no Sunday school, and church services only once a month, when a visiting clergyman comes from Charlotte. The school is 2½ miles away, consequently there is much illiteracy; in fact, only six children from the village attend at all, and these very irregularly. It seems incredible that such conditions can prevail anywhere.

SPRINGFIELD MILL, LAUREL HILL, N. C.

Everett White, aged 13, has worked two weeks; earns 50 cents a day. Eldest of four children. Father, Jack White, earns $1 a day. Rent, $2.80 a month.

John Bridgers, aged 14 in January, has worked three months here; prior to that three years at McCalls, S. C. Has three older stepbrothers who work, and one younger brother. Father, A. W. Bridgers, earns $1 a day. Rent, $2.80 a month.

NOTE.—The situation here is much as in Richmond mill, though not as intolerable. It is a wooden building also, and I was told it is so cold when they go in in the morning that they can scarcely stand it. Houses are all in poor condition, and no one appeared satisfied with the living conditions.

IDA MILL, LAUREL HILL, N. C.

Ida Lavina, aged 12, worked some in Rockingham and Laurinburg before coming here; earns 40 cents a day. Has two older sisters who work, and there are four younger children. Father, John Lavina. Rent three-room house, at $3 a month.

Ferman Strickland, aged 13 in April, has worked one year; earns 50 cents a day. Has two older brothers who work. There are two boarders in family, who each pay $3 a week. Father, W. S. Strickland, earns $1.25 a day. Rent four-room house at $3.20 a month.

Nezzie Langley, aged 13 in April, has worked two years; earns 75 cents a day Has older sister who works, and there are four younger children. Mother, Mrs. Farine Langley. Rent four-room house, at $3.20 a month.

Melton Watts, aged 11, has worked about one year; earns 33⅓ cents a day. Has one younger brother. Mother works, earning 75 cents a day, and father, J. M. Watts, earns $1.25.

Harvey Wright, aged 13 in October, has worked one year; earns 30 cents a day. Has older brother earning $1 a day, and there are four younger children. Father, Zack Wright, earns $1.50 a day. Rent, $1.20 a month.

Note.—This, being under same management, is in much the same condition as Richmond and Springfield. There is much mixed blood among the employees and laxity of authorities regarding either physical or moral welfare of people.

NATIONAL MILL, LUMBERTON, N. C.

Furley Thompson, aged 14 in November, has worked two years; earns 75 cents a day. Attended school during part of that time. Edgar Thompson, aged 12 in August, has worked two years, with irregular intervals of school attendance. There is one boy older than these two, who does night work, earning $1.40 a night, and there are three younger children. Father earns $1.40 a night. Rent three-room house at $1.80 a month.

Alden Edwards, aged 13 in June, worked during last summer, earning 60 cents a day. Has older brother and sister, who earn, respectively, $1.40 a night and 75 cents a day. One younger brother in school. One boarder, who pays $3 a week. Father is a carpenter. Rent three-room house at $1.80 a month.

Lelia Parker, aged 14, has worked three years; earns $1 a day. William Parker, aged 13, has worked irregularly for three years; earns 75 cents a day. There is one child younger than these two, and three older, who earn, respectively, $1.35, $1.15, and $1.50. Father, W. P. Parker, farms. Rents four-room house at $2.40 a month.

Montgomery Clewis, aged 14 in November, worked last winter and during past summer; earned 75 cents a day. Had older brother, who earns $1.25 a day, and there are three younger children. Rent three-room house at $1.80 a month.

Homer Bodehamer, aged 12 in March, has worked one year. Has older brother who works, earning 90 cents a day, and there are four younger children. Stepfather, Troy Brisson, earns $1.70 a day. Rent two-room house at $1.20 a month.

Byrd Taylor, aged 15 in May, has worked five years; earns 75 cents a day. Has two older brothers, who each earn $1 a day. Married sister and her child live with them. Father, G. W. Taylor, is invalid from pellagra. Rent four-room house, at $2.40 a month.

Homer Penny, aged 14 in July, has worked two years "off an' on"; earns 75 cents a day. Had older brother who works and one younger sister in school. Father, T. E. Penny, earns $1.25 a day.

Foster West, aged 13 in November, has worked two years; earns 50 cents a day. There are three younger children, and three older who earn, respectively, $1.40, $1.10, and 75 cents. Father, W. P. West, "jest knocks about." Rent three-room house at $1.80 a month.

Allen Lambe, aged 14; earns 50 cents a day. Has two younger sisters in school, and three older brothers who earn, respectively, 90 cents, 75 cents, and 70 cents a day. Father, A. R. Lambe, earns $1.40 a night.

Freddie Brit, aged 14 in September, has worked one year; earns 50 cents a day. There are three younger children, and four older, two of whom work, each earning $1 a day. Father, P. M. Brit, earns $1 a day. Rents three-room house, at $1.80 a month.

Joe Teedon, aged 13, has worked one and one-half years; earns 55 cents a day. Has one younger sister, and there are three older children who earn, respectively, $1.25, 54 cents, and 60 cents a day. Father, George Teedon, earns $1.10 a day.

NOTE.—Found no cases of desperate poverty here. Operatives speak very highly of mill authorities, and appear reasonably well satisfied, though some complain about low wages. Houses are reasonably good. Counted two girls and five boys apparently under age in mill, two of the latter being extremely small, fairly babies; they did not come above my elbow. Am not sure they were on pay roll, but they were at work while I was in mill.

DRESDEN MILL.

Hadley Gilmore, aged 13 in December, has worked 7 months; earns 44 cents a day. Oldest of five children. Father, J. R. Gilmore, earns $1.10 a day. Rent, including doctor's salary, 60 cents a week.

Fred Parrish, aged 14 in October; has worked two years; earns 44 cents a day. Marvin Parrish, aged 13 in August; has worked one year; earns 44 cents a day. These boys have one older sister. Father, A. Parrish; does hauling. Rent, 60 cents a week.

Edward Ellis, aged 14 in April; has worked two years; earns 66 cents a day. Fred Ellis, aged 13; has worked two years; earns 33 cents a day. Older sister and brother earn, respectively, 75 cents and 44 cents a day. Father, Stedman Ellis, earns $1.10 a day. Rent, 60 cents a week.

Claude Smith, aged 14 in February; has worked one year; earns 44 cents a day. Has older sister who earns about 66 cents a day. There are two younger children. Mother, Mrs. Annie Smith. Rent, 80 cents a week.

Wiley Owens, aged 14 in July, has worked two weeks here; prior to that in Lumberton Mill and elsewhere for some two years; earns 44 cents a day. Has older brother and sister who work, earning, respectively, $1 and 75 cents a day. Take one boarder,

who pays $2 a week. There are four younger children. Father, R. S. Owens, is a carpenter. Rent, 60 cents a week.

Robert Duncan, aged 13 in June, has worked nine months; earns 75 cents a day. Has older sister who earns $1 a day, and there are three younger children. Father, M. A. Duncan, keeps store. Rent, 80 cents a week.

George Smith, aged 13 in June, has worked one year; earns 44 cents a day. Has two older sisters and one brother, who earn, respectively, $1, $1, and 66 cents a day. Father, C. P. Smith, earns $1.10 a day. Rent, 60 cents a week.

Tommie Lewis, aged 14 in June; has worked three months here, and prior to that one year in Bladenboro; earns 75 cents a day. Has three older sisters who earn, respectively, $1, $1.15, and 80 cents a day. There are two younger children. Father, G. W. Lewis. Rent, 80 cents a week.

Plumie Stankwych, aged 14 in March, has worked seven years here, in Lumberton mill, and elsewhere; earns 75 cents a day. Has older sister who earns $1 a day. There are two younger children. Father, Alex Stankwych, earns $1.90 a day. Rent, 60 cents a week.

Retha Bullard, aged 13 in October, worked irregularly during last winter, three months during summer, and after attending school some weeks during fall, is again at work; earns 50 cents a day. Has two older brothers who each earn $1 a day. There are two younger children. Father, C. H. Bullard, "does first one thing and then another." Rent, 60 cents a week.

Gladys Tyner, aged 14, has worked six years; earns 52 cents a day. Oldest of three children. Mother, Mrs. Richard Tyner.

Robert Gore, aged 12 in December, works in mill. Has two older brothers and one sister who work. Has one younger brother. Take two boarders. Father, S. J. Gore, farms. Moved to mill only a few days ago.

LUMBERTON MILL.

James Grainger, aged 14 in November, has worked irregularly for one year; earns 40 cents a day. Mary Grainger, aged 11 in August, has been "in and out" of mill since last December; earns 40 cents a day. There are two younger children. Father, D. B. Grainger, earns $1.10 a day. Rent, 60 cents a week.

Angelo Wiggins, aged 12, worked in mill last winter, earning 25 cents a day; is now in school. Has older sister and brother, who each earn 50 cents a day. There are two younger children. Father, Vester Wiggins, earns $1 a day. Rent, 60 cents a week.

Esther McCallum, aged 13 in September, has worked one year; earns 75 cents a day. Has older sister, who earns 75 cents a day. There are five younger children. Mother, Mrs. Hattie McCallum. Rent, 60 cents a week.

Lloyd McClure, aged 13 in February, has worked three months at Bladenboro and six here; earns $1 a day. There are two younger children. Father, B. F. McClure, earns $2 a day. Rent, 60 cents a week.

Minnie Clewis, aged 12 in February, has worked one year; earns 50 cents a day. Has older sister, who earns 50 cents a day. There are two younger children. Father, W. W. Clewis, earns $1.21 a day. Rent, 60 cents a week.

Dolar Pittman, aged 14 in September, has worked four years; earns 50 cents a day. Has two older sisters who each earn $1 a day. There is one younger child. Mother, Mrs. Eliza Pittman. Rent, 60 cents a week.

Maude Perry, aged 15 in July, has worked one year here and six years at Dresden; earns 52 cents a day. Lena Perry, aged 12 in July, has worked one year; earns 32 cents a day. There are four younger children. Father, S. J. Perry, earns $1.35 a day. Rent, 60 cents a week.

Mary Frances Sewell, aged 13 in March, has worked six years in Fayetteville and other places before coming here. Father has deserted family several times before; just now he has been away some six months. There are three younger children. Mother, Mrs. Julia Sewell. Rent, 40 cents a week.

Blanche Pate, aged 13 in September, has worked three months; earns 35 cents a day. Has two older brothers, who earn, respectively, $1.02 and 50 cents a day. There are three younger children. Father, Will H. Pate, earns 99 cents a day. Rent, 60 cents a week.

Willie Osborne, aged 12 in July, worked three years at St. Pauls and has been employed here for three months; earns 75 cents a day. Has two older brothers, who earn, respectively, $1.25 and $1 a day. There are three younger children. Father, John Osborne, earns $1 a day. Rent, 60 cents a week.

Daisy Shaw, aged 13 in May, has worked one year; earns 50 cents a day. Frank Shaw, aged 12 in March, worked three months during summer, earning 50 cents a day. These children have an older sister, who earns 50 cents a day. There are five younger children. Father, Fred Shaw, earns $1.15 a day. Rent, 80 cents a week.

Jimmy Taylor, aged 14 in December, has worked three years; earns 44 cents a day. Has an older brother, who is an invalid, and an older sister and brother, who earn, respectively, 50 cents and 60 cents a night. Has one younger brother. Father, David Taylor, does hauling, etc. Rent, 60 cents a week.

The Lumberton and Dresden Mills are owned and controlled by the same company, the homes of employees being in same village. The houses are in unusually good condition, repairs being kept up, so that there were no complaints about walls leaking, etc. The Lumberton Mill is now installing a water and sewerage system in that village.

As it seems by report these mills work too many young children, and I understand that the authorities are not in sympathy with the movement to abolish child labor. In an interview with Mr. Jennings, secretary, found that he opposed the Federal bill on the grounds of being unconstitutional, and expressed the desire that the State should regulate the matter, but I also understand that he went personally to Raleigh in order to oppose the Weaver bill. "I feel that we are doing more for our people than the State is doing," said Mr. Jennings, remarking also that he knows nothing of conditions prevalent in other mill villages, and consequently will not say whether or not he considers new regulations advisable elsewhere.

JENNINGS MILL, LUMBERTON, N. C.

Oscar Horne, aged 13, has worked four months; earns 35 cents per day. Father, N. E. Horne, earns $1.25 a day. Two older brothers earn 75 cents apiece. One of these, aged 16, has been at work four years. Rent, three-room house, at 45 cents a week. (The doctor's salary is paid by adding 5 cents to room rent, so that real rent paid is 60 cents per week.)

Altie Ward, aged 14, has worked two years; earns 60 cents a day. Gertrude Ward, aged 12, has worked two years; earns 35 cents a day. Father, W. P. Ward, earns $1.25, and older brother and sister, respectively, 60 cents and 75 cents. There are four children younger than these. Rent, including doctor's salary, 60 cents a week.

Lettie Boseman and Florrie Boseman, aged 14 in December, have worked 13 months; earn 55 cents each a day. There are three younger children. Older brother and sister earn, respectively, 75 cents and 55 cents a day. Father, Martin Boseman, is unable to work. This family has been afflicted with pellagra. The oldest daughter died from that cause, and two of the younger children now have the disease. The father has somewhat recovered, but will never be strong enough to work again. They are very needy now, and could not have lived without aid given by neighbors. He says that groceries there are very high, and that as wood costs him $1 a week and his rent, including doctor's salary, $1.20 a week, it is almost impossible to buy medicine necessary for himself and his children.

Mattie Pridgen, aged 13 in February, has worked two years; earns 75 cents a day; youngest of five children. Father, W. P. Pridgen, does not work, but four older brothers earn, respectively, $1.25, $1.40, $1.75, and $1.25 a day, so it should not be necessary for this child to work.

Soland Norris, aged 12 in November, has worked two months; earns 40 cents a day. Has older brother and sister who earn, respectively, $1.40 a night and 75 cents a day. There are two younger children and one boarder. Father, M. Morris, earns $1.35 a day.

Bulah Sellers, aged 14 in December, has worked two years; earns 40 cents a day. Has one older brother, who earns $1.10, and two older sisters, one of whom earns $1.20. Father, W. A. Sellers, earns 99 cents a day.

Jonnie White, aged 14 in August, has worked nine months; earns 60 cents a day. Has older brother, who earns $1.10 a day. Family take one boarder. Father, B. White, earns $1.21 a day.

Carolina Warick, aged 13 in July, has worked two years; earns 80 cents a day. Has older brother, who earns $1.50 a day, and two sisters, earning, respectively, $1.10 and $1. There are four younger children. Mother, Mrs. Annie Warick.

James Jolly, aged 13 in August, has worked two years; earns 30 cents a day. Has older brother and sister, who earn, respectively, $1.40 a night and 50 cents a day. Has younger sister and brother. Father, D. J. Jolly, earns $1.50 a night.

Curtis Hickman, aged 13 in September, has worked one year; earns 50 cents a day. Has older sister and brother, who each earn $1.10. There are three younger children. Father, W. M. Hickman, earns $1.10 a day.

Edgar Merritt, aged 14 in July, has worked two years; earns 66 cents a day. Has older brother and sister, who each earn $1.25 a day. Father, E. M. Merritt, earns $1.38 a day.

Ida Harrelson, aged 14 in July, has worked three years, first in National Mill, Lumberton, N. C., then Bladenboro, then here since last July; earns 54 cents a day. Has two older sisters and one brother, who earn, respectively, 90 cents, 99 cents, and 66 cents a day. There are two younger children. Father, N. M. Harrelson, earns 99 cents a day.

Lillie Baxley, aged 12 in May, has worked two months; earns 18 cents a day. Has three older brothers, who earn, respectively, $1.10, $1.50, and $1 a day. There are two younger children. Father, Mac Baxley, earns $1.10 a day.

JENNINGS MILL.

Ada Jones, aged 13, has worked one year; earns 54 cents a day. Has older sister and brother, the latter earning 54 cents a day. There are three younger children. Father, Henry Jones, earns 60 cents a day.

Lawrence Wiggins, aged 14 in July, has worked three years; earns 66 cents a day. Wilbur Wiggins, aged 13 in August, has worked one year; earns 66 cents a day. These children have an older sister and brother working who earn, respectively, 90 cents and 66 cents a day. There are five younger children. Father, M. B. Wiggins, earns $1.25 a day.

Lizzie Smith, aged 14 in September, has worked six weeks in this mill; prior to that, two years at St. Pauls; earns 50 cents a day. Older brother earns 60 cents a day. Has one younger brother. Father, Charlie Smith, works at some trade in town.

Sallie Pridgen, aged 14 in March, has worked three weeks here; earns 30 cents a day. Worked before this in National Mill, Lumberton, N. C., and in mill at Bladenboro. Has three older sisters who work, and one older brother, who is an invalid. Father, George Pridgen.

Ruth Hayes, aged 14 in January, has worked four years; earns 40 cents a day. Has older sister, who earns 40 cents a day, and there are three younger children. Father, J. W. Hayes, earns 90 cents a day.

Lonnie Fenters, aged 14 in January, has worked here eight months; prior to that nine months at Bladenboro. Has one younger brother. Father, D. T. Fenters, earns $1.10 a day.

Mamie Ransom, aged 14 in December, has worked three years here and one year in Bladenboro; earns 54 cents a day. Has older sister and brother who work, earning, respectively 75 cents and 60 cents a day. There are five younger children. Father, J. W. Ransom, earns $1 a day.

Everett Hardee, aged 14 in January, has worked two years; earns 66 cents a day. Has two older brothers and one sister who work, averaging $1 a day each. There are five younger children. Father, T. D. Hardee, farms.

Recently a representative of the mill company came to this Mr. Hardee and requested him to find some person to care for a family named Simmons, three of whom had typhoid. This man assured Mr. Hardee that the company would pay for such services. Fearing to contract the disease, no one would consent to nurse the cases, so Mr. Hardee himself agreed to undertake the work, provided his pay should "go on his rent." This rent was for a tract of farm land some distance from the mill. Having arranged this to his satisfaction, he took charge of the family, and either he or his son stayed there day and night for 29 days doing the washing and all necessary services for the sick. Another child developed the disease and died during time. When Mr. Hardee rendered a bill to the company for $30, saying he would pay the difference in that and his rent, which was $40, his answer was: "Very well, we will pay you, but will charge the $30 to Mr. Simmons." Hr. Hardee protested at this and then asked if he could "take around a paper for the Simmons," but this also was refused. This method of raising money for an unfortunate family is a frequent occurrence in a mill village, so the debt still stands against Mr. Simmons.

This incident would probably have raised no comment but for the fact that the company sought and engaged the services of the nurse.

HIGH SHOALS, N. C.

Frank Reynolds, aged 14 in April, has worked two years; earns 78 cents a day. Has two older brothers and one sister who work. There are four younger children. Father, J. F. Reynolds, earns $1.10 a day. Rent, 50 cents a week.

Jennie Revels, aged 13 in February, has worked one year; earns 90 cents a night. Bessie May Revels, aged 12 in February, has worked seven months; earns 75 cents a night. There are five younger children. Father, W. N. Revels, earns $1.25 a day. Rent, 50 cents a week.

Leafie Long, aged 13 in June, has worked one year; earns 50 cents a day. Has three older sisters and one brother who earn, respectively, $1, 90 cents, $1, and 70 cents. There are three younger children. Father, C. W. Long, does not work. Rent, 50 cents a week.

Ardrey Straught, aged 14 in July, has worked two years; earns 75 cents a day. Has two older sisters, one of whom works, and one older brother. There is one younger child. Father, P. T. Straught, is unable to work. Rent, 50 cents a week.

Gus Keener, aged 14 in December, has worked two years; earns 75 cents a day. Youngest of seven children; others earning, respectively, $1.30, $1.30, 92 cents, 78 cents, and 80 cents. Claude, aged 20, is in school. Mother, Mrs. Emma Keener. Rent, 90 cents a week.

Purvie McQueen, aged 12 in May, has worked two years; earns 60 cents a day. Has two older sisters, who earn, respectively, $1.25 and 78 cents a day. There are four younger children. Mother, Mrs. J. M. McQueen. Rent, 60 cents a week.

Hall Fisher, aged 13 in February, has worked two years; earns 80 cents a day. Has three older sisters, two of whom work, and there are three younger children. Father, D. P. Fisher, earns $1.69 a day. Rent six-room house at 75 cents a week.

Egbert Cloninger, aged 14, earns 60 cents a day. Has three older sisters who work. There are three younger children. Father, S. W. Cloninger, has done the housework since the death of the mother seven years ago.

NOTE.—The natural situation of this village is excellent. Most of the homes are grouped on the hillside, where the air and drainage are above reproach. This is evidenced by general good health. I remarked especially the good color of the faces, a most unusual occurrence among cotton-mill families. The school facilities are good, the houses are in good repair, and the mill authorities appear to have an active interest in the welfare of the people. They employ child labor, however, and are strongly opposed to any improved legislation with regard to labor conditions.

KESLER COTTON MILL, SALISBURY, N. C.

Irvin Wilson, aged 14 in July, has worked two years; earns 75 cents a day as doffer. Roy Wilson, aged 12 in August, has worked six months; earns 50 cents a day. Father, Robert Wilson, is blacksmith. Older sister, Ethel Wilson, earns $1.25 a day. There is one younger child. Have two boarders, who pay $3.50 a week each.

Noie Curlee, aged 14 in May, has worked two years; earns 75 cents a day; completed third grade. Esther Curlee, aged 13 in August, has worked one year, with exception of two months in school, third grade; earns 45 cents a day. Father, Ben Curlee, sweeps in mill, earning $1 a day. There are five younger children. Rent, $1 a week; insurance, 65 cents a week.

Edna Sells, aged 13, has worked two years; earns $1 a day. Finished second grade. Has two older sisters, who earn $1 a day each. Father, Frank Sells, works in railroad shops, earning $2.75 a day. There are four younger children.

Daisy Kincaid, aged 12, at work. Father, George Kincaid. Mother refused further information.

Bertha Deaton, aged 13, has worked four months; earns 90 cents a day. Completed fifth grade (in sixth). Has two older brothers and one sister who work, the two former earning, respectively, $1.40 a night and 75 cents a day. There are four younger children. Father, J. H. Deaton, clerks, earning $1 a day. Rent, $5 a month.

Vanhoy Kepler, aged 13 in November, has worked one month; earns 50 cents a day. Older sister a cripple; older brother earns 75 cents a day. Father, John Kepler, works in engine room.

Ruth Taylor, aged 13 in March, has worked one year. There are four younger children. Take two boarders, $3 a week. Father, John Taylor, does hauling for company.

Claudie Blackwell, aged 13 in July, has worked one year; earns 75 cents a day. Completed fifth grade. Has two older brothers, who earn, respectively, $1 and 75 cents a day. There is one younger child. Father, A. P. Blackwell, earns $1.35 a day. Rent, $1 a week. Insurance, $1.15 a week.

Elsie Brown, aged 13, has worked two years; earns 75 cents a day. There are four younger children. Father, Charles Brown, earns $1.35 a day. One boarder, $3 a week.

Nora Stokley, aged 13 in August, has worked one year; earns 60 cents a day. Completed first grade (in second). Two older brothers, each earn $1.90 a night. Father, C. A. Stokley, earns $1.25 a day. One younger child. Rent, 75 cents a week. Insurance, 90 cents a week.

Carrie Torrence, aged 13 in July, has worked one month; earns 30 cents a day. Completed sixth grade (in seventh). Older sister earns 30 cents a day. Two younger children. Father, E. M. Torrence, carpenter. Rent, 75 cents a week. Insurance, 62½ cents a week.

Claude Emy, aged 12 in March, has worked two months; earns 75 cents a day. Completed third grade (in fourth). Older sister earns $1.10 a day. One younger child. Father, E. M. Emy, earns $1 a day. Rent $1 a week.

STATEMENT OF A. J. M'KELWAY, SECRETARY SOUTHERN STATES NATIONAL CHILD LABOR COMMITTEE, WASHINGTON, D. C.

Mr. McKELWAY. Mr. Chairman, the National Child Labor Committee was organized about 12 years ago to accomplish what could be done in the way of arousing public sentiment against the evils of child labor and to secure legislative protection for working children in the various States of the Union, in the hope of following that program with a constructive program toward industrial education and vocational training. It has been very successful in State legislation. There is not a State in the Union without some protection for working children. When we began there were a good many without any child-labor laws at all, some in the South; but progress has been made, of course, on the right line, with an occasional setback.

We are emphatically in favor of State legislation. Child labor is a national problem. It exists in every State of the Union. Now, it happened that our general secretary, Mr. O. R. Lovejoy, could not be at this meeting. I hoped that Mr. Clopper, the secretary for the Northern States, could remain over to-day, that he might try to lift away a little bit this sectional prejudice that the work of the National Child Labor Committee is in some way directed against the South, or in some way directed against a particular industry in the South. This is perfectly ridiculous. In the State of Pennsylvania we have just the same controversy with the glass manufacturers, the same in the State of Ohio, and the same conflict in Massachusetts with the textile mills that we have had in the Southern States. As I say, it is a national problem, and it takes a national committee representing all the States to do something with it.

My work has been in the Southern States. I am a Southern man and am fairly familiar with the Southern situation. I have been studying this problem for 12 years and I think I know something about it. It happens that in every Southern State—except one, Arizona, where they have no cotton mills, opposition to child-labor legislation has come from the cotton-mill industry and in most States this has been its only opposition. There was only one exception—I thought I had another—in Florida. There was an oyster packer down there who was very adroit; he was influential with the legislature, and finally I went on a tour of investigation to his oyster-packing plants and found that he had not been employing anybody for a term of years. I found out that he was a large stockholder in a cotton mill in Georgia, and his object seemed to be to prevent Florida setting a good example to Georgia in passing a good child-labor law.

So this industry has been the one, and generally the only one, that has opposed child-labor legislation by the Southern States.

According to the census of 1900 "more than any other mechanical or manufacturing industry in this country the cotton mill is the employer of children." The figures for the census of 1910 show that this industry is still most conspicuous in the number of children employed.

The first section of this bill relates to mines. It says that children under 16 years of age shall not be employed in mines. Nothing has been said about that here, and it is quite an important problem. For instance, in the United States now there are 2,208 children from 10 to 13 years of age—which means between 10 and 14, according to the census classification—employed in mines, and 15,403 from 14 to 15—under 16. Now, I would like to put into the record, in case this question is raised anywhere, an editorial from the Outlook concerning the Cherry Mine disaster in Illinois some years ago, about which, perhaps, you gentlemen have heard. It is as follows:

After the explosion in the mine at Cherry, Ill., among the first of the dead bodies brought to the surface were those of boys under 16 years of age. Had the presence of such boys in the mine anything to do with the cause of the disaster? Those who have worked in coal mines and have intelligently thought about the matter are strongly convinced that lack of skill and proper training in the miners themselves is a fruitful cause of accidents. Boys under 16 years of age can not have the skill, the training, or the judgment of their elders. They take chances that a grown man would regard as foolhardy. They are often reckless and irresponsible. Such a law as that of Illinois which forbids the employment of boys under 16 years of age in the mines is a safeguard not only to the boys but also to all the mine workers. It has long been established that in all dangerous occupations accidents to children form a much larger percentage than accidents to adults. It might almost be regarded as a corollary that accidents caused by children form a larger percentage than those caused by adults. There is thus good ground for raising the question whether this accident at Cherry, Ill., might not be due to the employment of boys. At the coroner's inquest testimony was given which shows clearly that such a question is pertinent. A 15-year-old boy testified that he and another lad had pushed a car with hay on it up to a flaming torch. According to the Chicago Tribune, he was asked, "Did you ever see any burning oil dripping from these torches?" "Yes," he replied: "the torch on the other side of us was dripping burning oil." "When you were working down there, did Rosenjack ever give you any orders what to do?" (Rosenjack is the miner who has assumed blame for the accident.) "No," the boy replied; "he did not tell me anything to do, or anybody else that I know of." "You left the car of hay up against the torch?" "Yes." "You knew that it was standing right up against the torch?" "It was pretty close to it." "Did you ever pay any attention to those open torches down there, or think that they were dangerous?" "No." "When you first saw the fire, was the car of hay standing close to the torch?" "Yes; just where we left it." "How close?" "About half a foot." The boy testified that Rosenjack tried to put out the fire with water that the two boys brought to him, and that all three were cut off by the fire from reaching the air-shaft cage. Rosenjack has disappeared, together with the other of these two boys, and it is understood that the mine officials have opposed any attempt to shift the blame from Rosenjack's shoulders. If the accident was due to a violation of the law in the employment of boys under the legal age limit, they have good reason for suppressing the testimony concerning it. We do not, however, wish to lay upon these mine officials any heavier burden than they are already bearing, for that in all conscience is heavy enough. These facts, however, emphasize the need not only of stricter laws regarding dangerous occupations but also of more vigorous and effective measures for their enforcement. The Outlook wishes to repeat what it has already said in connection with this disaster, that the law should permit only those men whose skill has been proved by adequate examination to be employed in mining. The custom which has been followed by many mining concerns of employing unskilled foreign labor because it is cheap has not only cost many lives but has not even achieved its own purpose of economy. So, too, it seems clear that the employment of young boys in the mines has been hurtful to mining property, as it has been also a menace to human life. (The Outlook, Dec. 25, 1909.)

Now undoubtedly that great disaster was caused by a boy illegally employed.

The CHAIRMAN. Who is the writer of that article?

Mr. MCKELWAY. This is an editorial in the Outlook. I do not know who wrote it.

I was in New Mexico during their constitutional convention to get something into the constitution relating to the welfare of children. While I was there a terrible explosion occurred in the Trinidad [Colo.] mines, and a man came from Trinidad to Santa Fe who told me it was caused by a boy's striking a match to light a cigarette. The boys were searched every morning, or it was attempted to search them, but it was found impossible to prevent their carrying matches into the mines. So it is not only for the boys under 16 but for the older miners that we ask that this 16-year limit for coal mines be adopted.

The CHAIRMAN. Do you want us to infer if that were adopted all accidents of this kind would be ended?

Mr. MCKELWAY. No; I do not think I am quite so illogical. I think it would tend to the elimination of accidents now occasioned by reckless, immature boys, under 16 years, in the coal mines.

The other standards of this bill you are familiar with; the 14 year age limit for children working in factories, canneries, etc., and for children between 12 and 14 the 8-hour day and no night work. Perhaps it would be of interest to you to know how generally these standards have been adopted.

In the first place they are the standards recognized by the American Bar Association in the uniform child-labor law, which was unanimously adopted by that distinguished body and recommended to all of the States for adoption.

The General Federation of Women's Clubs, through its executive board, has recently indorsed this measure.

According to the House report in this bill:

> The Farmers' Educational and Cooperative Union, representing all the States of the South, in national convention assembled, unanimously adopted the following resolution:
>
> "Whereas the National Farmers' Union believes in properly protecting the physical mental, and moral welfare of the child in order that its younger years may be devoted to the securing of that degree of education which befits American citizens and enables the child to be properly prepared for the duties of life;
>
> "Whereas there is now pending in the National Congress H. R. No. 12292, known as the Palmer-Owen bill, which prohibits manufactured goods from being admitted to interstste commerce which have been made in factories which employ children under the age of 14 years, or which work children under the age of 16 years more than eight hours per day, or at night; Therefore be it
>
> "*Resolved*, That we indorse this bill and demand its passage by the present Congress, and that copies of this resolution be sent to the Clerks of the House and Senate, the chairman of the Committee on Labor, and the President of the United States.
>
> ("Unanimously adopted and recommended by the committee on resolutions, and unanimously adopted by the Farmers' National Congress. Fort Worth convention. Sept. 2, 1914.)"
>
> The American Federation of Labor is another organization which has indorsed this measure: and the organizations favoring it contain a great number of State child labor committees, women's clubs, and humane organizations of all kinds.
>
> *Evidence of popular sentiment.*—The States whose age limit for the employment of children in factories is below 14, in all cases, have a population of only 4,244,952, while the States that have adopted the 14-year age limit with or without exemptions have a population of 87,727,314. The States that have refused to adopt a law prohibiting night work for children under 16 have a population of 11,475,572, as compared with a population of 80,496,694 who have said through State legislation that they desire the protection of children under 16 years of age from the evils of night work. As to the 16-year age standard for children employed in mines, taking the States recognized as mining States, those having a population of 41,837,431 have laws prohibiting the

employment of children under 16 in mines, as compared with those having a population of 11,728,486 which have not yet reached this standard in State legisalation In this connection it should be noted that Texas has an age limit of 17 years for the employment of boys in mines.

With regard to the 8-hour day for the employment of children under 16 in factories, while many of the largest industrial States of the Union, such as Massachusetts, New York, New Jersey, Pennsylvania (wherever the provisions for vocational education are put into effect), Ohio, Illinois, Kentucky, Minnesota, Missouri, Wisconsin, etc., the population of all the States making this provision for the protection of children is 52,551,796, while the population of the States not having this provision is 39,420,470. No objection has been manifested before our committee to the establishment of the 8-hour day except by the cotton manufacturers before mentioned. And while it affects a good many other industries, the objection vanishes when it is realized that the Federal law will mean an equal, just, and nation-wide enforcement, so that there will be no possibility of putting one State at a disadvantage as compared with another.

Tables showing State legislation.—The tables showing the States which have and have not attained the standards provided in the pending bill are printed below. It will be seen from these tables that only one southern State has not reached the 14-year age limit for the employment of children in factories; that only three of them have not reached the 16-year age limit for night work in factories; that Arizona, Arkansas, Kentucky, Missouri, and Oklahoma are among the States that have reached the 8hour-day for the employment of children under 16 in factories; that Alabama, Arkansas, Kentucky, Maryland, Oklahoma, Tennessee, and Texas have reached the 16-year age limit for the employment of children in mines and quarries. It seems, therefore, that the attempt to make this measure for the protection of the working children of the Nation a sectional measure aimed at the South is groundless.

TABLE I.—*States having standard provisions without exemptions.*

(*a*) Fourteen-year limit in factories and canneries:

Alabama.	Maine.	New York.
Arizona.	Massachusetts.	North Dakota.
Arkansas.	Michigan (15 years; 14, canneries).	Ohio (16, girls; 15, boys).
Connecticut.	Minnesota.	Oklahoma.
Florida.	Missouri.	Oregon.
Illinois.	Montana (16 years).	Pennsylvania.
Iowa.	Nebraska.	Rhode Island.
Kansas.	New Hampshire.	South Carolina.
Kentucky.	New Jersey.	Wisconsin.
Louisiana.		

(*b*) Sixteen-year limit for night work in factories and canneries: All States listed under I (*a*) except Maine, and, in addition—

California.	Idaho.	South Carolina.
Delaware.	Indiana.	Vermont.
District of Columbia.	North Carolina.	

(*c*) Eight-hour day under 16 in factories and canneries:

Arizona.	Kentucky.	New York.
Arkansas.	Massachusetts.	North Dakota.
California.	Minnesota.	Ohio.
District of Columbia.	Missouri.	Oklahoma.
Illinois.	Nebraska.	Wisconsin.
Iowa.	Nevada.	
Kansas.	New Jersey.	

(NOTE.—Montana forbids the employment of children under 16 in factories.)

(*d*) Sixteen-year limit in mines and quarries:

Alabama.	Kentucky.	Oklahoma.
Arizona.	Maryland.	Tennessee.
Arkansas.	Nevada.	Texas (17 years).
California.	New York.	Wisconsin (18 years).
Connecticut.	Ohio.	

(*e*) Sixteen-year limit in mines but not in quarries:

Colorado.	Montana.	Washington.
Illinois.	Pennsylvania.	

TABLE II.—*States weakening or nullifying standard provisions by exemptions.*

(*a*) 14-year limit in factories with exemptions specified:

California, weekly school holidays and vacation.
Colorado, vacation.
Delaware, (1) canneries; (2) poverty.
District, poverty.
Georgia, poverty.
Idaho, vacation.
Indiana, canneries.
Maryland, canneries.
Mississippi, 14-year limit only for girls; law applies only to textile mills.
Nevada, special permit.
South Dakota, poverty.
Tennessee, canneries.
Texas, 15-year limit applies only to factories with "dangerous machinery."
Utah, 14-year limit applies only to tobacco fatories and those making goods for immoral purposes.
Vermont, exempts places employing less than 10 persons.
Virginia, (1) canneries; (2) special permit.
Washington, poverty.
West Virginia, special permit.

(*b*) 16-year limit for night work in factories with exemptions specified:

Colorado, (1) vacation; (2) special permit.
Maine, "perishable products."
Mississippi, 16-year limit applies only to girls.
Tennessee, canneries.
Virginia, (1) canneries; (2) special permit.

(*c*) 8-hour day under 16 in factories with exemptions specified:

Colorado, (1) vacation; (2) special permit.
Indiana, consent of parents.
Mississippi, applies only to girls.
Washington, applies only to girls.

(*d*) 16-year limit in mines with exemptions specified:

Iowa, vacation.
Vermont, (1) outside of school hours; (2) completed elementary school.
West Virginia, vacation.

TABLE III.—*States without standard provisions.*

(*a*) No 14-year limit in factories:

New Mexico.
North Carolina.
Wyoming.

(*b*) No 16-year limit for night work in factories:

Georgia.
Maryland.
Nevada.
New Mexico.
South Dakota.
Texas.
Utah.
Washington.
West Virginia.
Wyoming.

(*c*) No 8-hour day under 16 in factories:

Alabama.
Connecticut.
Delaware.
Florida.
Georgia.
Idaho.
Louisiana.
Maine.
Maryland.
Michigan.
New Hampshire.
New Mexico.
North Carolina.
Oregon.
Pennsylvania.
Rhode Island.
South Carolina.
South Dakota.
Tennessee.
Texas.
Utah.
Vermont.
Virginia.
West Virginia.
Wyoming.

(*d*) No 16-year limit in mines or quarries:

Delaware.
District of Columbia.
Florida.[1]
Georgia.[1]
Indiana.[1]
Idaho.[1]
Kansas.
Louisiana.[1]
Maine.
Massachusetts.[1]
Michigan.[1]
Minnesota.[1]
Mississippi.
Missouri.[1]
Nebraska.
New Hampshire.
New Jersey.[1]
New Mexico.[1]
North Carolina.
North Dakota.
Oregon.
Rhode Island.
South Carolina.
South Dakota.[1]
Utah.[1]
Virginia.[1]
Wyoming.[1]

[1] Reported by the Census of 1910 as having mine products valued at $2,500,000 a year or more.

So we claim that a clear majority of the people of this country have already said, through State legislation, that these standards are reasonable and just for the protection of children.

Mr. Chairman, perhaps you may have wondered why there has been this opposition from one industry to this measure. It was not brought out clearly in the testimony, merely being hinted at by the first witness, Capt. Smyth. It is pretty generally agreed that the 14-year age limit would not make any difference. North Carolina, since South Carolina enacted this day a new child-labor law, is now the last manufacturing State in the Union which permits children under 14 to be employed in factories. Mississippi has halfway stopped it; they make it 14 for boys and 12 for girls.

What is the opposition to this bill based upon? Why does Capt. Smyth object so strenuously to interference by Federal inspectors with "our internal affairs"? It is because, Mr. Chairman, a Federal law would be effective. It is because this law would mean the enforcement of child-labor legislation throughout the United States.

If every State in the Union had adopted legislative standards proposed in this bill still there would be 48 different standards of law enforcement. The southern cotton manufacturers, whom Gov. Kitchin represents, do not come with clean hands asking that Congress do not pass a Federal law, because, first, they have resisted in every State of the South, except Arizona, where there was no cotton factory, the passage of adequate State legislation for the protection of children; and, second, because they resisted even more strenuously efforts to enforce State legislation through factory inspection and adequate appropriations for State factory inspection. Two of the gentlemen who have appeared as witnesses before this committee, Mr. Patterson and Mr. Ruffin, I have met before in the manufacturers' lobby before committees of the North Carolina Legislature. They were in Raleigh a year ago opposing the adoption of these very standards in the Weaver bill, and when the Weaver bill was unfavorably reported by the committee a bill introduced by Senator Nash to provide for factory inspection was also defeated. They claim that the present law of North Carolina, inadequate as it is for the protection of childhood, with its nominal 13-year age limit, with the impossibility of prosecuting manufacturers who do not knowingly and willfully violate the law—that is, who do not take the pains to learn the age of another man's child—with its 11-hour day for 12-year old children and its 12-hour night for five days in the week, from which recently by statute children under 16 were protected, is not violated. Every governor of North Carolina—Gov. Glenn, Gov. Kitchin, Gov. Craig—have all urged factory inspection. Gov. Kitchin in his message to the North Carolina Legislature in 1913, his third message on this subject, said:

> Factory inspection is absolutely essential to the enforcement of our child-labor laws—not that all manufacturers fail to obey them, but that some violate them. You should provide ample inspection.

Nevertheless, in spite of Gov. Kitchin's great influence with the legislature, the manufacturers' lobby was more powerful than he was, and up to this day they have no factory inspection in North Carolina, except a provision that anyone may report violations to the county superintendent of education. It would be only reasonable to expect therefore to find violations of the child-labor law in North Carolina. I call your attention to the Bureau of Labor report, volume 1, page 186.

Mr. Chairman, there is a peculiar obsession about this Federal Bureau of Labor report concerning the condition of women and child wage earners in the United States, namely, that Senator Beveridge's speech in the Senate on child labor caused the investigation, costing the Government $300,000. This was mentioned by one of the witnesses from Alabama, a day or two ago. As a matter of fact, Senator Beveridge was opposed to the investigation, believing that the time had come for action, and as to his speech being the moving cause for the passage of the bill, the following dates are significant: The bill authorizing the investigation was introduced in the Senate April 2, 1906. It passed the Senate December 18, 1906, and passed the House January 21, 1907, Senator Beveridge began his speech on January 23, 1907, resumed it on January 28, and finished it on January 29. I know the Senator to be a very capable man, but I have never been able to figure out how he could have caused the passage of a bill by a speech which was delivered after the bill was passed. The report resulting is in 19 volumes, devoted to the cotton industry, the glass industry, the clothing industry, etc., and the only part ever disputed is that relating to Southern cotton mills. Taking up again the question of the violations of law, the report says, on page 186, volume 1, concerning South Carolina, which then had the poorest child-labor law of any manufacturing State in the South and no enforcement, both the law and its enforcement having been greatly improved since:

The most extensive violation of the age-limit law was found in South Carolina. In addition to 42 children under 12 years of age who were orphans, children of widows, etc., and who were therefore legally employed, 405 other children under 12 were found working in the establishments investigated in that State. As shown by the table on page 171, such children constituted 12.3 per cent of the total children employed in the 36 establishments investigated, and 2.8 per cent of the total number of employees. Children under the age of 12 years were employed in 34 of the 36 establishments investigated in the State, and 33, or 91.7 per cent of these 36 establishments employed such children illegally. In 7 of these 33 establishments less than 1 per cent of the employees were children under the legal age and not legally excepted from the provisions of the law. In 20 establishments between 1 and 5 per cent were thus illegally employed. In 3 establishments between 5 and 10 per cent and in 3 others over 10 per cent of all employees were children under 12 years of age who were not legally excepted from the provisions of the law.

Now, the report goes on to say:

In North Carolina the law was only slightly less flagrantly violated. Of the 59 establishments canvassed, 44, or 74.6 per cent, were found to employ children under the legal age. In 13 of these establishments less than 1 per cent of the employees were children under 12 years of age, in 19 establishments from 1 to 5 per cent, and in 11 establishments between 5 and 10 per cent. In 1 establishment in North Carolina (No. 44) 12.05 per cent of all employees—a higher percentage than in any other cotton mill investigated in the South outside of Mississippi, which had no child-labor law—were under 12 years of age. In the 44 establishments illegally employing children a total of 1,751 children were employed, 202 of whom, or 11.5 per cent, were under the legal age. These constituted 8.6 per cent of all the children in the mills invesigated in North Carolina, 2.61 per cent of all employees in the establishments illegally employing children, and 1.77 per cent of all the employees at work in all establishments investigated in the State.

In Georgia 20 of the 31 establishments investigated, or 64.5 per cent, employed children under the legal age. Two other establishments employed children under 12, but all were employed under legal exceptions. A total of 107 children under 12 years of age were found at work, and of these, 41 were under legal exceptions, the remaining 66 were illegally employed. These 66 constituted 5.8 per cent of the children and 1.05 per cent of all employees in the 20 mills illegally employing children. Of all the children employed in the mills investigated in the State, these 66 children constituted 3.6 per cent and of all employees in these mills 0.58 per cent. This is a much

lower percentage of illegally employed children than in any other southern State except Virginia. In 1 establishment more than 5 per cent of the employees were under the legal age, and 9 establishments less than 1 per cent were under 12 years and not legally excepted from the provisions of the law.

In Alabama 8 of the 13 establishments investigated employed children under the legal age. This is a smaller proportion of establishments than were found thus violating the law in Georgia, but a much higher proportion of children were illegally employed, although this proportion was lower than in either North Carolina or South Carolina. A total of 71 children were found to be under the age of 12 years. This was 7.5 per cent of all children and 1.59 per cent of all employees in the establishments illegally employing children under 12 years of age; it was 6.1 per cent of all children under 16 years of age and 1.27 per cent of all employees in the 13 establishments investigated. Of the 71 children under the legal age, 48 were at work in one mill. This was the only establishment in which more than 5 per cent of all employees were under the legal age, as against 1 in Georgia, 6 in South Carolina, and 12 in North Carolina.

Alabama now has a fairly good factory inspection, although two or three inspectors are unable to cover the whole field. Georgia has practically no factory inspection. The last legislature refused to provide for it.

Mr. KITCHIN. Doctor, suppose you put in the date of this investigation.

Mr. MCKELWAY. Yes. During the last six months Miss Eunice Sinclair, of Fayetteville, N. C., made an investigation—of course an incomplete one—and I would like to correct an impression that was made on the committee by Gov. Kitchin's questions to her. The children she reported upon were or had all been illegally employed when she found them. There were some 14 years of age employed more than a year, and there were some at 12 years of age, but all of those that were employed had been illegally employed, whether they were illegally employed at the time she found them or not.

This Bureau of Labor report was made in 1908. Every State in the Union has advanced some in child-labor legislation since that time. North Carolina has not made any provision for enforcement by factory inspection. So the conditions in that State, while they have improved, have improved because of public sentiment. They have improved because Mr. Swift has shown that the age limit was 13 instead of 12. But still here are the official returns from North Carolina in the last report that we have on the subject, in 1908.

As a Southern man I have been resenting a little the idea that the South was opposed to child-labor reform, or that the South was opposed to the Keating bill which is before you. I have a pocket full of clippings here from Southern newspapers, although I do not know that I ought to cumber up the record with them. Some of them are very instructive, however, as representing the sentiments of the South. If there is no objection, I will put these in with my remarks.

The CHAIRMAN. I think you may put in a few of the more important ones.

(The clippings referred to are as follows:)

EXTRACTS.

[From hearing before House Committee on Labor.]

STATEMENT OF MR. OWEN R. LOVEJOY, SECRETARY OF THE NATIONAL CHILD LABOR COMMITTEE.

Mr. LOVEJOY. Mr. Chairman and gentlemen of the committee, I am here representing the national child labor committee, a volunteer organization which has been in existence nearly 10 years, and has for its purpose the studying of

child-labor conditions in various parts of the country, the drafting of bills, conferring with different State committees and organizations, campaigning to get these bills through in the different States, cooperation with the departments of factory inspection, labor commission, educational authorities, and others in the effort to get the laws enforced when they are enacted.

The national child labor committee is interested in this bill because, after 10 years' experience in helping to get better laws in the various Commonwealths, we have found that it is difficult, if not impossible, to get uniformity of action in the different States. In many instances we find that the interests opposed to the legislation sought are opposed, not because they would be opposed on their own ground, but because they feel if they passed laws that would be more stringent within their Commonwealth they would be handicapped in competition with the same interests in other States. To some extent we believe that opposition on this ground is not warranted. We take the position that child labor is the most extravagant form of labor to be employed ordinarily, and that the industries that are managed with reduced child labor, or that eliminate it, are working on more economical lines than the industries that employ child labor extensively and for long hours. But opposition to enacting laws in the States is just as vigorous from that point of view as though it were not sometimes founded on a fallacy.

Now, Mr. Chairman, the points I want to suggest to the committee are the following: First, assuming that Congress is able to pass such legislation as this, assuming it to be constitutional, I want to present to the committee the suggestion that the bill we are arguing for is not an unreasonable, drastic piece of legislation. That is the objection that has already been raised against the measure by those who do not wish this kind of legislation enacted. It has been said that we are asking the Federal Government to establish a standard that is entirely unique and does not exist to any extent, and therefore that it is unreasonable to ask Congress to take action which would not be upheld, or has not been upheld by the standards of any fair number of the people of a Commonwealth.

I wish to meet that argument with data that I have to present to the committee, but which I shall present now only in summary and which I will leave with the committee.

The first standard is the prohibition of child labor under 14 years of age in the ordinary manufacturing occupations. There are at present 44 States that have enacted legislation of this kind, either relating to a large number of industries or to certain specific industries. In addition, the law exists in the District of Columbia and Porto Rico. The bill next seeks to forbid the employment of children under 16 years of age in mines and quarries. In addition to the 15 States that prohibit such work by children there are 6 States that have such small mining and quarrying interests that there are less than a thousand people altogether engaged in the industry in any one of these 6 States. Therefore there are 21 States that either have the standard or have such slight industrial interests in the matter as to prevent any so-called practical objection to this legislation.

The third is the prohibition of child labor under 16 years of age for more than eight hours a day. The attitude of the American Commonwealths and of the Federal Government on the subject of the eight-hour day is interesting in its present form and in its history. There are now 19 States that prohibit the employment of children under 16 years of age for more than eight hours a day. This of itself presents a strong argument for making it a national standard, that 19 States have taken this position. But it is not as strong as the correlated facts that out of the 26 States that prohibit the employment of adults on State contracts for more than eight hours a day 13 of these States do not appear in the list of the 19 States to which I referred. That is to say, whereas 26 States forbid the employment of adults for more than eight hours a day on State contracts, only 13 of those are in the list of 19 States that forbid such employment of children undner 16 years of age. In addition, there are 13 States that forbid the employment of convicts in our penitentiaries or other penal institutions for more than eight hours a day. Two of them limit the hours of work to six a day. Besides this, the Federal Government, after having for some years forbidden the employment of labor for more than eight hours a day on Government contracts, at the last Congress went even further and provided that no private contractor doing Government work should be permitted to employ labor for more than eight hours a day on private contracts or Government work.

We take the position that if eight hours a day are considered by 26 States long enough for every able-bodied adult man to work on State contracts, if eight

hours a day are long enough for people nearly all adults, probably all adults, to work on Federal contract work, either for the Government itself or for private contractors, if eight hours a day constitute a long enough day for convicts in our penitentiaries.

If these hours are long enough for Government and State employees and convicts, we submit to you gentlemen that eight hours a day constitute a long enough day for children between 14 and 16 years of age who have just come out of school, who are in the very midst of that radical change that comes to every child at that time of life, going through the adolescent period, when they need protection and care, not only for their education and morals but for their physical health.

The fourth standard refers to night work, and there are at present 33 States and the District of Columbia and Porto Rico that forbid the employment of any children under 16 years of age at night—a majority of the States.

A question at this point might reasonably be asked: If so many States have taken this stand—if within the past 10 years so many States have made such advances toward the standard sought in this bill—why, then, this relief from the Federal Government in accomplishing what seems to be a foregone conclusion in the future by State legislatures? The fact is, in a number of these States I have mentioned the law refers only to specific industries, and I am mentioning them here simply to establish a principle as a standard and not as affording the protection that is sought.

The sentiment in many of these States where the laws are more sweeping is that while they would not fear protecting the children against these conditions, yet, as a matter of fact, the laws are ignored. In some of the States the departments of factory inspection are entirely lacking. The State will pass a law, but make no provision for the machinery to enforce the law. In other States the inspection departments are either so limited by small appropriations or such a small force or so tied down by other conflicting influences that their efficiency is greatly impaired.

EXTRACTS.

[From report of House Committee on Labor.]

STATEMENT OF MISS JULIA C. LATHROP, OF THE CHILDREN'S BUREAU, DEPARTMENT OF LABOR, WASHINGTON, D. C.

Miss LATHROP. Directly the bureau was organized its correspondence revealed afresh a country-wide desire to get rid of child labor, a conviction that there must be abolished any condition which defrauds the child of his right to education and a fair start in life. In addition to the correspondence which showed this very wide popular feeling, last year it was my duty to go much about the country stating as well as I could the purpose and scope of the bureau, and I found everywhere groups of people very deeply interested in the question of preventing child labor, persuaded that it is the duty of the public, not merely negatively to abolish the premature labor of children, but to provide those apportunities for the just development of every child which the ideal of a sound democracy requires. These were people not always skilled in legislative wisdom, but who were only waiting for the passage of such a measure as this to take hold of the task of substituting for the labor of children the training which is their due, of putting child training in the place of child labor. The passage of such a measure as this would undoubtedly signalize a distinct and immediate advance in the provisions for the hygiene and education of children.

The CHAIRMAN. You are perhaps prepared to give an opinion upon a question like this: Do the medical authorities find it to be a fact that the stress of continuous labor, industrial labor, affects the growth of the child, the ordinary physical development of the child?

Miss LATHROP. I think that all European and American authorities alike agree upon that. Of course the labor of children is very largely surrounded by such other disadvantageous conditions outside of the factory as go to make the factory injury from impure air or overspeeding, even more disadvantageous to the child than if the child came from a happy and luxurious home, to which he or she returned, where health and comfort were preserved in every respect outside of the hours of labor.

The CHAIRMAN. What age or period of the child's life has been indicated by the physicians as the appropriate age at which labor could safely begin?

Miss LATHROP. I am not aware that there is any uniform decision by the medical profession on this matter, but I notice that every year those who

study most carefully the growth and development of America push that age further and further ahead, whether they are educators or whether they are physicians, or whether they are interested in any form of civic improvement where the interests of the child are concerned.

The CHAIRMAN. I do not know whether that indicates a general sympathy for childhood or whether it indicates a medical opinion as to the fact.

Miss LATHROP. I think it very emphatically indicates a medical opinion. Such material as was gathered by Josephine Goldmark in her book on Fatigue and Efficiency is testimony in that particular. There are many medical opinions and brief studies scattered through the whole literature of child labor, but thus far, with the exception of the volume on Fatigue and Efficiency, I know of no general compilation.

I should like to explain to this committee the attitude of the Children's Bureau. The bureau was confronted by the field marked out for it by this committee, namely, to investigate and report upon all matters pertaining to the welfare of children and child life among all classes of our people, and at the same time by the fact that its staff consisted of 15 people and its appropriation $25,640.

At the same time the $300,000 investigation by the Bureau of Labor into the labor of women and children was still not entirely published, and it seemed grossly absurd to put the two field investigators provided by the law, for the Children's Bureau on this subject; so that we did not begin our field inquiries by further investigation of child labor.

The CHAIRMAN. Is there not a publication of the Department of Labor on child labor forthcoming and ready for print?

Miss LATHROP. Of course they have published certain material on child labor. The full report on woman and child wage earners in the United States contains much material on child labor, and in the reports on the glass industry and textile mills there are special sections on the relation of labor to health. Thus on pages 385–386 in the report on the textile mills (Vol. I) the greater liability of children to accident is shown, and pages 47–59 of the report on the glass industry (Vol. III) describe the great physical strain of the work for boys, and pages 433–447 the relation to health of the work of girls in this industry. Volume XIV, on the causes of death among woman and child cotton-mill operatives, is suggestive in this connection. I have been told that it is intended to make a popular condensation of all the reports. I do not know how this is progressing.

Mr. HAWLEY. May I ask a question, Mr. Chairman?

The CHAIRMAN. Certainly.

Mr. HAWLEY. There is in the world a growing sentiment in favor of vocational education. You have been interested in that?

Miss LATHROP. Very greatly.

Mr. HAWLEY. There is nothing in this bill that would interfere, you think, with the carrying out of that plan of vocational education?

Miss LATHROP. If I did not think the bill would greatly serve that end I should be absolutely against it. There is appended hereto a statement prepared by Dr. Arthur Reed Perry, of the Bureau of Labor Statistics, under direction of Dr. Royal Meeker, the commissioner of the bureau. I think this statement is unique and feel that I can greatly clarify my statement by adding it.

"There is now being prepared by Arthur Reed Perry, M. L., through the United States Bureau of Labor Statistics, an extension of his 1905 to 1907 study of factors that shorten lives of woman and child operatives in cotton manufacturing cities (published as Vol. XIV of the nineteenth volume report upon woman and child wage earners, S. Doc. No. 645, 61st Cong., 2d sess.), that will be based upon accompanying circumstances or phenomena of the lives of all persons aged 10 to 64 years dying in Fall River, Mass., during the semidecade 1908 to 1912—the initial study (Fall River) in a survey series of antilongevity causes in manufacturing cities of foremost rank in the several industries.

"Possibly the most conclusive argument against allowing children under 16 to work is the showing, both in Volume XIV, page 72, and in this coming supplementary study of Dr. Perry's, that girl cotton operatives (most of whom even in New England, prior to 1912, began millwork before their fifteenth birthday) after working in the mill only a few years have become very much more liable to die than holds true of the aggregate other girls of their city of the same age.

"Table 84, page 400, of this Volume XIV shows that a sixth (16 per cent) of the female operators dying from tuberculosis within the cities included in that study began millwork before they were 13 years of age.

"Tenacity of life is at its zenith around the age of puberty. Conditions must be superlatively bad, therefore, in order to kill outright children either near the age of 14 or those on the threshold of youth in the post-puberty age period, 15 to 19.

"Vitality conservation quite as much as stature increase is the function of adolescence.

"This is the period, therefore, during which should be jealously safeguarded for the child his inherent right, perquisite, pleasure, and duty to accumulate and save from nature's gifts of vitality, lavishly bestowed upon him daily, a store that later drawn upon will predicate a favorable issue over misfortune and accident, stress and disease.

"Nevertheless advantage has been taken of their tenacity of life to impose upon children working days so long, tasks so unsuitable, or workshops so unhygienic that, barely to exist as he is the child is obliged each day to draw upon and use what nature intended for present growth and for later emergency use to insure longevity.

"For even in these childhood, post-puberty, and youthful years of designed vitality-plenty apparently for some operative girls the exigencies of daily living already had used up their reserve strength, because in three cotton manufacturing cities during a period of three years the number of deaths from tuberculosis to each 1,000 girls of each designated occupation class of specified age Volume XIV shows (Table VI, p. 198) to have been as follows:

Age groups.	Mortality from tuberculosis among females of Fall River, Mass., Manchester, N. H., and Pawtucket, R. I., in 1905-1907.		
	Cotton operatives.	All other (nonoperatives).	Total both classes.
Death rates:			
10 to 14	2.21	0.54	0.59
15 to 19	2.19	1.10	1.54
20 to 24	3.04	1.24	1.93
Per cent of excess in death hazard of operatives over nonoperatives:			
10 to 14	309		
15 to 19	100		
20 to 24	145		

"Operatives, thus, of the most youthful age group were four times, those of the post-puberty group were twice, and those of the young adult group—20 to 24—were about two and a half times as liable to die from tuberculosis as were, respectively, the girls of like age that did not work in cotton mills. It must be remembered that one-half of all female operatives are aged 15 to 24 and that, therefore, this group is a fair sample of the cotton industry.

"It is scarcely less than obvious that the groups 15 to 19 and 20 to 24 together comprise about the very earliest age period in which 'premature age at beginning wage earning,' or occupation, childbearing, or, in fact, any other life incident or accompanying circumstance, however debilitating, could have so depleted a worker's native store of resistance and vitality as to have resulted in death.

"And yet Volume XIV has shown, furthermore (Table 52, p. 325), that thus early in life exercise even of the natural function of childbearing by Fall River operatives of 1905 to 1907 was attended with an enormously greater hazard to life than it was for nonoperatives similarly aged. (Operative rate from parturition 0.56 per 1,000 of whole population aged 15 to 24; nonoperative rate from the same cause 0.06 per 1,000 of whole population aged 15 to 24.)

"Moreover, the same table shows that the whole liability of female operatives aged 15 to 24 to die from any and all causes (5.30 per 1,000) was more than one and three-quarters times as great as obtained in the case of nonoperative girls of the same age (2.96 per 1,000).

"Obviously it may be objected that there is an appreciable degree of inequity in comparing the death rate of a class—the operatives—all of whom work, with the death rate of nonoperative girls of the same age, since some of the latter are not wageworkers.

' The excess hazard of the operatives, however, is so enormous as more than to offset any unfairness in the comparison.

"To guard against even the possibility of misapprehension, perhaps it should be pointed out also that there is a considerable degree of probable unfairness in comparing, as respects their hazard from parturition, the whole class of operatives with that of nonoperatives, irrespective of conjugal condition.

"Because, though at the age of 15 to 24, the female population of Fall River, married and single together, is almost equally divided between operatives and nonoperatives, it is extremely likely that operatives constitute a considerable majority of the whole married population of this young-age group. Still the comparison, though admittedly inexact, can not mislead, because (all) operatives, as has been noted above, were ten times as liable to die from childbirth as were (all) nonoperatives of the same age, and there is no probability that married operatives were anything like ten times as numerous, even in age group 15 to 24, as were the married nonoperatives.

"It is now becoming in some degree appreciated how much misery and inefficiency result from long-unrecognized defective vision, and how large is the number of deaths in middle and later life that basically are attributable to unidentified lesions caused in childhood by the so-called mild contagious diseases—as measles and whooping cough—as well as to the severer ones—scarlet fever, diphtheria, pneumonia, tonsillitis, and influenza.

"Hence, accompanying the crusade for a high age limit for beginning wage earning, and of no less value practically in conserving health through preventive measures, should be a demand for an 'employment physician' with power, after a thorough physical examination of applicants, to refuse an employment permit to anyone until crippling defects of vision, nutrition, or disease shall have been corrected, and to withhold from any applicant a permit to work in such industries as shall be deemed grossly inimical to the applicant's longevity. The applicant, for example, with incipient tuberculosis should be withheld from employment in indoor dusty occupations, and he with a leaky heart valve should be kept out of the heavier and physically more strenuous trades. Moreover, whenever change of employment is sought it should be the physician's duty also to reexamine each such applicant and to grant or refuse a certificate for reemployment, whether in the same or in a new industry, wholly with reference to the applicant's physical condition at that time. Incidentally, through such reexaminations ultimately there may be learned much respecting the effect of occupations upon the health.

"(Respectfully submitted Mar. 18, 1914, by Arthur Reed Perry, M. D.)"

THE EIGHT-HOUR DAY FOR CHILDREN.

[Article by Anna Rochester, former special agent National Child-Labor Committee.]

The eight-hour day has been so widely recognized as the normal working-day for adults that the advantages of such a limit for working children are almost beyond discussion. But to those who are weighing the merits of the eight-hour regulations contained in the proposed Federal child-labor bill and in child-labor bills now pending before State legislatures, we offer a brief review of existing statutes, their reasons and advantages, together with the practical experience of industrial States which have already restricted to eight hours the working-day of children.

The normal day.—In the majority of skilled trades, the eight-hour day has for years been the recognized standard, and "overtime" beyond this limit has received special compensation. In line with this tendency are the statutes of some half dozen States which provide that eight hours shall constitute a day's work unless otherwise specified by contract. Ten other States limit the work of convicts to eight (or less) per day. More significant are the increasing number of States limiting the hours of work of public employees to eight a day without overtime except in cases of emergency. Their provisions vary greatly, applying in some cases only to persons employed directly by the State or by municipalities and in other cases to all persons employed on contracts for the government. The law covering Federal employees is fairly comprehensive and shows that Congress has definitely accepted the principle that eight hours constitute a normal day's work for adults.

Health.—There is another type of State laws fixing an eight-hour day for adults in certain specified occupations. Arkansas, Nevada, Maryland, and others limit to eight hours the working-day of persons on whom depends the safety of

others. Certain classes of railroad employees (particularly those who are responsible for the spacing of trains) and hoisting engineers in mines are specially selected for such restriction, because a mind alert and well controlled is obviously necessary for the protection of the public in one case, and of fellow workers in the other. The statutes tacitly admit that an alert mind, which means a body free from excessive fatigue, can be assured only by the eight-hour day.

Consider: The adult is assumed to fall below par physically if he works more than eight hours. What then of the immature youth, the child under 16 years, who works more than eight hours? His work may not involve the safety of others, but it surely involves his own physical deterioration. And yet 16 of these States, whose laws set an eight-hour for one or another class of adult workers, allow their children to work a longer day.

Again: Some States have fixed an eight-hour day for all workers in mines, and this suggests another query: Which is more subject to injurious fatigue, an adult working underground or a youngster repeating the monotonous processes of a typical, highly specialized factory? Reserve your answer until you read this little extract from the brief submitted by Mr. Louis D. Brandeis and Miss Josephine Goldmark to the Supreme Courts of Oregon, Illinois, and Ohio, and now published under the title of "Fatigue and efficiency." (The brief was based on a compilation of opinions of scientists and on special investigations and researches.) They say:

"Besides physical strain due to speeding and complexity of machinery, health is injured by the extreme monotony of many branches of industry. Specialization has been carried so far that change and variety of work is reduced to a minimum. Minute division of labor results in the constant repetition of similar motions and processes by the same worker favoring the onset of fatigue and requiring for relief the establishment of a shorter workday."

Or more in detail, note the opinion of one leading physician of Cincinnati:

"It is well known that excessive exercise of certain muscles will result not in increase of strength but in degeneration and weakening. * * * Apply these statements in practice to the case of a girl feeding material to a machine and sitting in one posture for hours at a time; to the case of a boy handling small articles of manufacture, having perhaps nothing more to do than to remove them from one machine to another close by, or to perform, in the standing position, a set of movements with rapidity but involving no test of strength. Such work commonly develops quickness of eye and dexterity of fingers. It is certainly not looked upon as involving physical strain of any account. * * * As a matter of fact, standing and sitting are possible only by active muscular work and, when prolonged, have connected with them the disadvantage of permitting but little change of activity to other muscles. Under these circumstances the tissues yield under unrelieved strain, the leg and trunk muscles become excessvely fatigued and compel the assumption for relief of faulty postures which finally take the place of the normal and leave the child more or less deformed. * * * Standing occupations involve the feet and legs in greatest strain, and more especially the feet. In consequence we see developing, during the adolescent years, that condition known as flat foot. * * * Lateral curvature of the spine is frequently seen in girls who have been engaged in sitting occupations during the developmental period. * * * Such a severe degree of lateral curvature adds greatly to the likelihood of developing pulmonary consumption. * * * The remoter effect of the deformity upon the pelvis of the girls I need only mention to the extent of saying that * * * this has always been recognized by medical men as of potentially serious influence upon the material function."

Approximately 100,000 children under 16 are now working more than eight hours a day in the factories and mills of the United States.[1]

Recreation, study, and efficiency.—Involved in these physical effects are others disastrous alike to the child and to industry. The complaint that workers as a class are apathetic, stupid, incompetent, and generally inefficient is repeated so often by certain employers that one might fancy the entire race was degenerating. But wouldn't you be apathetic if you were chronically tired? Wouldn't you be stupid if your work consumed so many hours that you had little or no time for recreation? "All work and no play makes Jack a dull boy." And suppose you were strong enough in body and in will to keep your interest

[1] 99,387 factory workers under 13 years in States having no eight-hour law for children, United States Census of Manufactures, 1909 (based on employers' reports).

and your wits in spite of long hours; suppose you wanted to study and increase your skill and when your outlook, your opportunities would be far greater after an 8-hour day than a 10-hour day. But if you did keep your ambition and your ability you would be the rare exception. The average youth inevitably slumps under the strain, and for his physical, mental, and industrial welfare a workday limited to eight hours is absolutely essential.

Apart from these comparatively distant results it has also been found by experience that the shorter day tends to improve the quantity of the work and does not reduce the quantity of goods produced. The frail, overworked child, with little or no opportunity for rest, play, or study, accomplishes no more in 10 hours than the vigorous, alert child accomplishes in 8. Hence the "trend toward the shorter workday proceeds because economic efficiency rises and falls with the worker's physical efficiency, and whatever contributes to the latter tends to raise the former."

Manufacturers are gradually coming to realize the truth of this statement. For a long time many employers disguised their opposition to an eight-hour law under a cloak of pity for the "poor widows," who would be ruined by any interference with their children's present work. As a matter of fact, "poor widows" have not been ruined, for the eight-hour day has not resulted in throwing children out of work nor in reducing their wages. John Williams, former commissioner of labor in New York State, says: "I have never heard that the enactment of the eight-hour restriction worked a hardship upon the families of working people." Similar testimony comes from the Massachusetts child-labor committee, which has been investigating the rumors of hardship inflicted by the eight-hour law that took effect last September. The real source of employers' opposition seems to have been a fear that their output would be decreased by an eight-hour day for children or that an increased cost of production would result from the necessity of substituting older workers who could work unlimited hours and keep the amount of output up to standard. In actual experience it has proved that the children can do as much in 8 hours as they formerly did in 10.

Eight hours for children only.—The most popular objection to the eight-hour day for children has been that it would not be practicable to employ children eight hours in a plant where adults work a longer day. Overwhelming evidence from manufacturers proves that this assertion is without foundation.

In order to ascertain the grounds for this objection to the eight-hour day, a special investigation was made by an agent of the National Child Labor Committee in three States, Ohio, Illinois, and New York, where an eight-hour day for children has been in operation for several years. Information was sought in factories representing the industries in which the largest numbers of children were employed. It was found that children were employed eight hours at the same kinds of work at which they had been employed before the law went into effect, while the adults continued to work for longer hours. With practical unanimity employers reported that they had found no difficulty in readjusting schedules to obey the law. The eight-hour day for children has not been even temporarily a handicap upon business, and no cases of failure or removal from the State have resulted. On the contrary, the industries involved have steadily grown.

Every textile and garment factory in northern Ohio has enlarged its plant and increased its business since the law went into effect in 1908. The Cleveland Worsted Mills, which had complained most about the handicap the law would put upon the textile industries, have enlarged their plant until now, as the superintendent expressed it, "Some of our bulidings are about a mile away." The N. J. Rich Co. and the Northern Blanket Co. have increased their plants, and not a single textile mill or shoe factory claimed that it was being driven out of business. In New York State, where the law went into effect in 1907, the census of 1910 shows a 30 per cent increase in the value of the products in the textile industries since 1904.

The general opinion of the manufacturers was that wherever the eight-hour law had limited their capacity for production at all, they have since made it up by increasing the efficiency of the plant. In Ohio 15 out of 21 manufacturers in the textile industry said that it had been no handicap; likewise 8 out of 9 shoe maufacturers, 7 out of 10 paper-box manufacturers, and 15 out of 16 employers in other industries; 18 out of 20 textile manufacturers in Illinois declared that the law which was enacted in 1903 had been no handicap; and out of 11 representatives of other industries only 1 thought the law had been troublesome. New York shows similar results, for only 1 manufacturer out

of 25 had any complaint to offer, and that was because he objected to the way labor bills were introduced and not because he advocated child labor.

Many employers have found shifts entirely practicable. The Julian & Kokenge Co., in Cincinnati, Ohio, have three shifts, beginning at 7, 7.30, and 8 a. m., respectively, and leaving at corresponding times. The Cleveland Worsted Mills at Ravenna use two shifts, 7—4 and 9—6. Mr. Beaupre, of the Aurora Cotton Mills, where two shifts are in use, says: "We have not been put to great inconvenience. It is easy enough to have shifts after you have once tried it. I should prefer not to have child labor at all if the laws were only uniform. All child labor could be eliminated in textile mills."

In regard to the second method of adaptation, there has apparenty been little displacement of children as a result of the law. In 71 per cent of the textile mills in Ohio there has been no change in the numbers of children employed. The school records in Cincinnati, Cleveland, and Columbus show that more working certificates were issued each year following the enactment of the law than for the year immediately preceding the enactment of the law. In Cincinnati there were 2,856 issued in the first year and 3,348 in the second year, as against 2,053 during the year preceding enactment of the law. The factory inspector of Ohio reports almost twice as many children in the textile mills in 1911 as were reported in 1908, when the law went into effect. In Massachusetts after the aw of 1913 had been in operation three months 5,000 working certificates had been issued in Lowell, New Bedford, and Fall River alone, while there are only 5,400 children under 16 in these cities.

Medical Opinion Upon the Eight-Hour Day.

With the very dangerous results of millwork in mind, the American Medical Association at its meeting in Atlantic City in June, 1914, which was attended by 6,000 physicians from all over the United States, adopted the following resolution without dissent:

Whereas many thousands of children under 16 years of age are employed in the United States in gainful occupations, under improper conditions, resulting in the impairment of their health and future well-being; and

Whereas 19 States and the Congress of the United States, for the District of Columbia, have already enacted laws limiting the hours of labor for children under 16 to eight hours a day, and prohibiting such children from working at night or at dangerous occupations: Now, therefore, be it

Resolved by the American Medical Association, That we commend those States which have adopted legislation to protect children under 16 years of age from the disastrous consequences of unsuitable work and bad industrial conditions and urge all other States to establish for the benefit of such children a workday not to exceed eight hours and the prohibition of labor at night or in any hazardous employments; and to this end we recommend that all State medical societies affiliated with this association, and the medical profession generally, advocate the passage of such laws by the legislatures of their respective States.

Philadelphia County Medical Society.

The Philadelphia County Medical Society at its meeting, April, 1914, adopted the following resolution:

Whereas the Pennsylvania Child Labor Association is striving to limit the labors of all children under 16 years of age to not more than eight hours per day, for six days each week, for the purpose of securing to each child in the Commonwealth his or her right to normal development along physical, mental, and moral lines: Be it

Resolved, That the Philadelphia County Medical Society, comprising a membership of nearly 1,700 of the leading active physicians of the county, hereby indorses and commends the efforts of the Pennsylvania Child Labor Association to limit the hours of labor of all children under 16 to not more than eight hours per day for six days each week, and urges that sister societies and the medical profession generally throughout the State do everything in their power to accomplish the desired end.

Not only does this resolution carry with it the indorsement of the 1,700 members of the society, comprising every man of influence and standing in the community in Philadelphia, but many of them have written personal letters strongly expressing their feelings on the subject of child labor. Among the better known from whom letters have been received are the following:

Samuel G. Dixon, M. D., Commissioner of Health of Pennsylvania: "I am very much in favor of anything that will permit the full normal development of our children. I indorse your suggestion of their not working more than eight hours a day under 16 years of age."

John H. Girvin, M. D.: "I believe that 10 hours a day for children under 16 years is undoubtedly injurious from both medical and physical standpoint in the vast majority of cases. Eight hours seems to me the outside limit, and I believe even less than that would be of advantage to the race."

Edward Martin, M. D.: "From a medical and physical standpoint I consider that a 10-hour day is likely to prove injurious to the health of the average factory child between 14 and 16 years of age. I approve of an 8-hour limit for the employment of such children."

Samuel McClintock Hamill, M. D.: "I would say that I believe a 10-hour day is likely to prove injurious to the health of the average factory child of from 14 to 16 years of age. I do unquestionably approve of an 8-hour limit in the employment of such children. I have just noted in a recent number of the Survey a very interesting and favorable report of the effect of the Massachusetts law. I am sure that this same result will follow in all of the States in which this 8-hour law is established."

William M. Welch, M. D.: "I do not see how anyone qualified to express an opinion could oppose the movement to secure the passage of an act that would limit the working hours of children under 16 years of age employed in factories to eight hours per day."

Charles J. Hatfield, M. D.: "I believe that the physical and nervous strain of a long-continued standing or sitting posture, together with the monotony of work, necessity for haste, incessant noise, etc., is most injurious to a growing child. There is absolutely no question from the medical standpoint that eight hours of labor for six days of the week should represent the extreme limit of time of employment."

Samuel Wolfe, M. D.: "I think eight hours a day is as high a maximum of employment in a factory as can be accepted with the best and most useful future of the developing child of 14 to 16 in mind. That this future is one of the most important economic and social problems with which we are confronted needs no argument."

J. P. Crozer Griffith, M. D.: "I have always thought that the strain and long hours of school life were bad enough, but the confinement for 10 hours at continued labor for children of the age which it is now allowed is many times worse. There is no question in my mind that it undermines the constitutional strength of the child and prepares it for an adult life of diminished health. I thoroughly approve of the 8-hour limit for children and think that it should be enforced."

Henry D. Jump, M. D.: "I believe from the medical and physical standpoint that a 10-hour day is likely to bring injuries to the health of the average child between 14 and 16 years of age, and I am heartily in favor of any legislation which will limit the employment of such children to an 8-hour limit."

Solomon Solis Cohen, M. D.: "There can be no doubt that 10 hours' confinement in a factory is injurious to the health of children between 14 and 16. I approve of the 8-hour limit."

Charles B. Penrose, M. D.: "I approve of an 8-hour limit for the employment of factory children between 14 and 16 years of age. I consider that a 10-hour day is very likely to prove injurious to the health of such children."

Robert N. Wilson, jr., M. D.: "I thoroughly disapprove of the 10-hour day and believe that a shorter working period would be a benefit from every standpoint, including the physical. Diseases of women are no more likely to spring from overwork in children than are diseases of men. In either sex the bad results have been those of nervous and physical exhaustion—not, probably, those of localized disease."

Frederick Fraley, M. D.: "Having for more than 10 years been working in dispensaries devoted to children and to diseases and disorders of the nervous system, I am very strongly convinced that a 10-hour working day for children of factory age is distinctly injurious in its effects. Not only do we see the bad physical results in such overstrain, but with increasing frequency we meet with the nervous and physiological changes following impairment of the body system. I emphatically condemn the 10-hour day, and think an 8-hour day may be too long in certain occupations and individual cases."

Francis W. Sinkler, M. D.: "I can not mention any specific case of illness resulting from overwork among children, but I have frequently observed with

regret the poor physique and the diminished strength and resistance to disease that these children working in factories exhibit. I have seen many such examples in my hospital service at the Episcopal Hospital, where the greater number of patients admitted are working in factories."

M. H. Bochroch, M. D.: "In my experience, which has been very large in the neurological branch of our science, a large number of the cures have been effected through rest. I want to impress upon you the fact that rest is the most potent factor, and if the hours were shortened, whilst the working time would be cut down two hours a day, it is the hour early in the morning when the child is not thoroughly satisfied with rest and the hour at night when the nervous system is at its lowest ebb that more damage is done than in the intervening hours. Now, while the percentage of the working hours may be but one-fifth less, the benefits accruing to the child are very large, and I emphatically approve of any measure or movement that will reduce the working hours of the child."

J. Morton Boice, M. D.: "Observations, as gynecologist of the out-patient department of St. Joseph's Hospital, force me to see the mischief that comes to children under 16, who are overworked, not only at this critical period of their lives, when their sexual existence is starting, but also at many times in their adult lives, when the serious displacement and other conditions which render life miserable are directly traceable to overexertion and long hours in the factory at a tender age. If children between 14 and 16 years of age must be employed in factories, I most heartily indorse the 8-hour limit."

Edward P. Davis, M. D.: "A 10-hour working day for the average child between 14 and 16 years of age is entirely too long. This is exactly the period of life where continued stress and strain should be avoided. Nothing could be worse for a child than the continued strain of factory work, with a brief interval for midday and the constant noise and disturbance of machinery."

R. Tait McKenzie, M. D.: "I am strongly of the opinion that every hour that can be taken from the length of the working day in growing children is a distinct gain for their health and efficiency in later life."

H. Howard Fussel, M. D.: "I have seen much of factory children in the Manayunk district. I know from this experience, and having worked among them for years as physician, that the long hours of labor at such a tender age are distinctly detrimental to their health. They are easy prey to infection; they become prematurely old; and the average child's health who has thus to work is distinctly interfered with. I do approve of an eight-hour limit for the employment of such children; even this is all too long."

Lawrence F. Flick, M. D.: "Many adults who go under with tuberculosis might have been saved if in their younger years they had been spared some of the hardships which they had been compelled to undergo."

Henry M. Fisher, M. D.: "Some years ago, while I was attending physician to the Episcopal Hospital, I was very much struck by the great frequency of heart disease among young girls who were employed in factories in Kensington, and was led to believe that overwork had much to do with the prevalence of this disease among growing children. I have also been struck with the frequency of tuberculosis among young girls employed in tobacco and cigar factories."

Swithin Chandler, M. D.: "The man who employs them is the loser because of the inferior and indifferent work performed. The State and Nation is retarded in its economics, growth, development, and general enlightened progress."

L. T. Ashcraft, M. D.: "As humanitarians, our attitude toward the subject of child labor should be unmistakably plain. It should be the sense of the community that they indorse the principles of the Palmer-Owen child-labor bill now pending before Congress, which, in brief, asks the Federal powers to prohibit children under 16 years of age from working more than eight hours a day, at night, or at hazardous and dangerous occupations, and, moreover, to demand sanitary conditions under which they may follow their several occupations."

EXTRACTS FROM SOUTHERN NEWSPAPERS, RELATING TO THE KEATING CHILD LABOR BILL.

In the Charlotte Observer, February 5, 1916, the following resolutions are published, adopted by the southern branch of the National Association of Hosiery and Underwear Manufacturers on February 4, 1916. The resolutions are printed here for the purpose of pointing out that the aid of the Congress is sought for the protection of these manufacturers in the matter of foreign

commerce, while they protest against any interference by the Congress with interstate commerce, in child-made goods:

"Whereas the almost complete cessation of certain commodities on account of the European war has forced the American manufacturers to invest millions of dollars in an effort to supply these deficiencies: Therefore be it

"1. *Resolved* by the Southern Knit Goods Manufacturers that the administration at Washington be earnestly requested to take immediate steps to formulate new laws or amend old statutes to prohibit the selling of foreign products in the American market at less than their market price prevailing in the country of their origin;

"2. Whereas the knit goods manufacturers of the Southern States are very seriously hurt by the operation of the blockade instigated by belligerents against the transportation from European countries to the United States and for consumption therein of noncontraband chemicals and dyestuffs: Now, therefore, be it

"*Resolved*, That it is the sense of this meeting that the President of the United States, the Secretary of State, and all Senators and Congressmen be informed that this branch of the textile manufacturing trade look to them for relief by demand on the belligerent powers to permit free intercourse with this United States of the said noncontraband articles, and that pending a settlement of this demand the United States take such measures as will speedily bring this about.

TARIFF COMMISSION.

"3. Whereas the American textile industry has suffered serious disadvantages owing to the condition of the domestic dyestuff industry under the circumstances brought about by the present European war; and

"Whereas we feel this is in part due to the failure of our Government to have in the past a just tariff on dyestuffs: Be it

"*Resolved*, That this meeting of southern knit-goods manufacturers now assembled heartily indorse President Wilson in his proposal to establish a tariff commission, and that said commission fix a tariff that it finds to be equitable both to the textile manufacturer and to the life of the dyestuff industry.

"4. Following up our indorsement of the tariff commission, and in view of the fact that there will probably be unforeseen foreign competition in the knit-goods industry at the close of the European war: Be it

"*Resolved*, That this report referred to the commission recommend that the tariff commission, immediately after its establishment, consider the present knit-goods tariff with a view to making such amendments as the condition then warrant.

"5. Whereas our National Congress is now considering a measure known as the Keating-Owens bill, which is of special importance to the knit-goods industry: Be it

"*Resolved*, That it be the sense of this convention that—

"6. Whereas we, the southern knitters are opposed to anything detrimental to the health of the childhood of the South, still, in view of the fact that the bill in question has been supported by the presentation of distorted facts concerning the true conditions of the child labor in the South; and

"Whereas it is being handled in a way to excite factional unfriendliness: Be it

"*Resolved*, That this particular bill is not a proper solution of the child-labor question or offered in a proper time or in a proper way.

The following extract from the Tuscaloosa (Ala.) Times-Gazette, indicates what it is believed is the real attitude of the South toward child-labor reform:

ASHEVILLE, N. C., February 5.—A. J. McKelway, secretary for the Southern States of the National Child Labor Committee, spoke here this evening on child labor on The South for Child Labor Reform. He said, in part:

"The South understands at last how it has been misrepresented and deceived and betrayed in the matter of child-labor reform. She declines any longer to allow the most reactionary employers of a single industry to arrogate to themselves the right to speak for her and claim that 'the South is attacked' when the effort is made to protect the helpless children of the Nation. She recalls that the first feeble efforts at child-labor reform were denounced as proceeding from New England emissaries of labor; that when a national committee was formed, representing all sections of the country, to solve by common counsel

this national problem it was denounced as having been financed by capital invested in New England cotton mills. She had seen the influence of this industry, so conspicuous for the exploitation of children, exerted in State legislatures and in the halls of Congress. She has seen southern Senators and Representatives, misrepresentatives all, strive to prevent the creation of a Children's Bureau and later strive to cripple it with meager appropriations. And she has seen the same little goup of Representatives in the House voting last year and this against the Federal child-labor bill and describing it as an attack on the South.

"And, if I do not misinterpret the spirit and traditions and sentiments of my own people, the South hotly resents the implication that her civilization is measured by the standards of child-employing cotton mills. It is unfair to the South that such an impression of her humanity should have been made by the exploiters of childhood and their Representatives that the press dispatches now almost automatically carry the statement, 'Southern Congressmen oppose Federal child-labor bill.' For a majority of southern Congressmen voted for that bill, as they did for the Children's Bureau and for ample appropriations for that bureau. The South is not only in favor of the abolition of child labor, but she is getting ready to rebuke in no uncertain fashion those who have misrepresented her views in the halls of Congress as she has already rebuked those who as governors or as State legislators have defied the will of the people through subservience to special interests."

The following southern newspapers are among those which have expressed their opinions emphatically in favor of child-labor reform, and in most instances in favor of the principles of Federal regulation:

Tampa (Fla.) Times, Roanoke (Va.) World, the Rome (Ga.) Herald, the Americus (Ga.) Progress, the Galveston (Tex.) Tribune, the Macon (Ga.) Telegraph, the Winston-Salem (N. C.) Journal, the Galveston (Tex.) News, the Asheville (N. C.) Citizen, the Augusta (Ga.) Herald, the New Orleans (La.) Picayune, the Beaumont (Tex.) Enterprise, the Memphis (Tenn.) Commercial-Appeal, Meridian (Miss.) Star, Tucson (Ariz.) Star, the Baltimore American, the Houston (Tex.) Post, the Greenville (N. C.) Reflector, and the Journal of Labor, Atlanta. Extracts from some of these editorial expressions are printed below:

[Roanoke (Va.) World.]

THE MODERN SLAVERY.

Those people of the South, and they may be counted by the million, who take a broad view of things and who want to see their Nation developed along the highest lines, are following with profound regret the attitude of southern Representatives toward the Keating-Owen child-labor bill.

This bill is designed to prevent the employment of children under 14 and to limit the hours of work for children between 14 and 16 to eight hours a day. In the large majority of States of the Union a law similar to this is in force, but in some Southern States it is far below the standard which the best thought of the country plainly establishes.

Opposition to the Keating-Owen measure comes almost entirely from the South, and particularly from Virginia and North and South Carolina. Such opposition, in our judgment, does not express the convictions of Virginia and Carolina people. In fact, it misrepresents them. It advertises them before the world as champions of modern slavery. For years the American Nation has been struggling to break the shackles from the hands of children, to make life and opportunity for them brighter, and to put behind them the protective care of government.

If the question of preventing child labor could be submitted to the citizens of Roanoke, it would pass by an overwhelming, if not unanimous, vote. We wish it were so that this fact could be made known to all the world. Roanoke stands in the forefront of the battle for the little ones, and it bears with profoundest sorrow of its misrepresentation by southern Democratic Congressmen. Roanoke is for the child first, last, and always, and it hangs its head in shame that men can sell the child's rights and the child's future for the perpetuation of material advantages. Roanoke is opposed to slavery of every sort, and it hates with all its heart the slavery that would barter the lives of God's precious charges for the building up of gain.

[Asheville (N. C.) Citizen, Feb. 4, 1916.]

KEATING BILL'S FIRST BLOOD.

The passage of the Keating bill by one of the biggest majorities every accorded a measure in the lower House of Congress is a signal triumph for the opponents of child labor, and certainly a stinging rebuke to the Southern legislators who believe that their seats in Congress must be retained by the sacrifice of little children. It is rather a sad commentary on some of Dixie's Representatives that they stood out in painful comparison to more than 300 Congressmen from other sections of the United States, and it is no record to be proud of that historians of the future will write.

Child labor, a marketable commodity! Child labor, a sop to be thrown to the great manufacturing interests that congressional succession may be uninterrupted and that the profits of the aforesaid interests may grow greater and wax fatter! Evidently there are 337 Congressmen opposed to 46 Congressmen, taking the figures of the Keating vote as being correct, who are not troubled by the question of constitutionality, but who know and believe that when the United States Government engages in the work of protecting its wards, its citizens of the future, it has entered upon a mission which the States of themselves seem unable to accomplish, mostly because they will not accomplish. If this great Government, which has reached out into so many questions involving State rights, will not protect its little ones from greed and oppression, who will protect them? It has been said that some parents must depend upon the labor of their children. This may be true in rare cases, but the number is remarkably small. In most cases the parents who feed on the strength and energy of their children, refusing to work themselves, are burdens upon the Nation, and they throw upon society of the future more wrecks of their own type. The question of child labor is not a political one, and he who would attempt to make it so is unworthy of the respect and confidence of his fellow men. This is a national question, and while the public conscience has not yet been fully aroused to this danger which threatens the country, a danger far greater than the lack of armament, a day of accounting is coming, a day wherein a zeal for justice and fairness to helpless childhood will be kindled in the hearts of the people. For, after all, justice is a law of God, founded upon nothing less than His eternal wisdom.

[Raleigh (N. C.) News and Observer, Feb. 9, 1916.]

THE CHILD-LABOR EVIL.

Just so long as the North Carolina opponents of the Keating bill contented themselves with making objections to the bill based upon their belief that it is unconstitutional, that it is a bill which overrides State rights, that it is a bill which is to be made the basis of conditions in which New England mills will be favored as against southern mills, they were on pretty safe ground to argue against that measure which has just passed the United States House of Representatives.

But when the position is seriously taken that there are laws with relation to child labor in North Carolina which meet the need or which are satisfactory to the people who want to see childhood protected, arguments against the Keating bill fall flat. It is a well-known thing that bills with "teeth" in them for the ending of child-labor laws have been put to sleep in the State senate, and at the last session the modest bill for State inspection was done to death by cotton mill manufacturers and the influence they had in the senate.

In its child-labor laws North Carolina, we believe, is classed at the bottom of the list of those looking out for its children, and in this is placed with South Carolina, New Mexico, and Wyoming. We can't say that we "point with pride" to any such comradeship. In fact, we wish we were well away from the three States to which we are linked in the lack of care we give to childhood which is forced into the mills. And especially so when we recognize that it is that position which is said to have been largely the reason for the Keating bill, the purpose of which is to lift the emphatic hand of the law against child labor.

[Greensboro (N. C.) Record, Feb. 15, 1916.]

MR. SMYTHE.

Mr. Smythe, cotton-mill owner of South Carolina, was before a Senate committee to-day opposing the Keating child-labor bill, and he came near converting us, at any rate—to favor the measure which he opposes. This paper has been inclined to antagonism of the proposed law which would prohibit the interstate shipment of goods made by child labor, believing that the laws on the subject might be handled best by the individual States, but the manner of the fight being made upon the bill is very near to convincing us that the bill is not only meritorious but that certain of the mills are more dependent upon the labor of children than we had ever supposed. From time to time the statement has reached our ears that none favors child-labor laws which relieve the manufacturers of the demand that they employ children more than the average manufacturer himself, and, believing this, we have been inclined to oppose yellow agitation for legislation in the matter. But there are some views we have which are principles. We do not believe an industry which offers homes to families is justifiable in arguing that these families must work their 14 and 15 year old children to keep up the household, and therefore we can not see any good purpose in a mill owner presenting this phase of the case to the Congress.

[Raleigh (N. C.) Progressive Farmer, February, 1916.]

Since southern manufacturers with their vast wealth and influence have used their power to prevent suitable child-labor legislation by State action, nothing remains but for the National Government to handle this matter.

[Winston-Salem (N. C.) Journal, Feb. 4, 1916.]

CHILD LABOR IS UP TO SENATE.

It is now up to the United States Senate to say whether or not the Supreme Court will face the necessity of passing on the constitutionality of a Federal law prohibiting the shipment of goods made by children from one State to another. As was generally expected, the child-labor bill passed the House Wednesday by an overwhelming majority, which was, we have no doubt, a little more overwhelming than the friends of the measure had anticipated. There were few who thought that only 46 Members of the House would in the final test register dissenting voices against the Keating bill; but so it was.

Coming from the House as it does with such a powerful majority in its favor, there is good reason to believe that the Senate will also pass this bill. More and more the Senate is becoming mindful of the fact that the House is close to the people and is fresh from the people and as a usual thing knows what the people want in the way of legislation. And the Senator who is as much politician as statesman—and most Senators are that—nearly always keeps his ear close to the ground. Such Senators will think twice before flying directly in the face of a House majority of 337 to 46, Constitution or no Constitution. When the test comes we dare say he will find it much easier to shift the burden of safeguarding the Constitution from his own to the Supreme Court's shoulders than to take the responsibility himself.

Of course there are a great many Senators who are first of all statesmen and who would be willing to sacrifice their seats to principle, who would rather lose their jobs than to vote for a measure which they believe to be against the letter and the spirit of the Constitution. Then there are not a few Senators who, like many Members of the House, honestly believe that Congress has a right under the Constitution to pass this child-labor bill. These last—the politician Senators and statesmen Senators who are honest, but, in our opinion, mistaken—will doubtless predominate when the vote is taken on the Keating bill.

[Memphis (Tenn.) Commercial-Appeal, Jan. 4, 1916.]

But the right to grind the hope and health and joy out of little children by long hours of hard labor in close factories or dark mines belongs to no man and no corporation of men. And it is against the greed of these would-be grinders that the child labor committee has formulated its bill. The members of this committee are not speaking from hearsay information. They have

personally inspected the mills, the sweatshops, and the mines where the blood and hope of the undeveloped children have been coined into factory products. It is in behalf of these children that they are seeking to arouse public sentiment, that Congress may be induced to pass a national law that will be effective and protective.

[Hickory (N. C.) Daily Record, Jan. 15, 1916.]

There are only a few defenders of those who would stand for the system in North Carolina. A rich Commonwealth can not afford to be backward in the matter of child labor, and North Carolina manufacturers should let the world know that they are willing to go as far as any State in practical welfare legislation. Wholesome legislation is coming, and it would be much better if the broad-minded men among the manufacturers would take it upon themselves to see that good laws are made and then obeyed.

[Anderson (S. C.) Farmers' Tribune, Jan. 11, 1916.]

MILLS WORK OVERTIME.

Some operatives of the Anderson mills called at Farmers Tribune Saturday and asked that we call attention to the fact that that mill was daily violating the laws of the State by working the operatives overtime. "While we are not required to start work until 15 minutes after the wheels start, yet if we do not take up our work 15 minutes before the appointed time, the work is so torn up that it requires half a day to straighten out the mess," said one of the operatives. "Of course," continued this operative, "we do not get pay for straightening up this work, and therefore rather than lose several hours straightening up what the machines have messed up, we go to work 15 minutes ahead of time in the morning and at noon, which allows us only 30 minutes to get home for dinner and back to the machines. Those who work by the day are also required to work overtime, which amount to about a half a day during the week."

[Greenville (S. C.) Home Circle.]

CORPORATION, NOT STATE, OFFICERS.

The other day we had an interview with a prominent attorney regarding the cotton mill deputy sheriffs in the State. He said: "I don't believe in these mill village police being hired and paid by these mill corporations, as they are more bound to serve for the corporation than the general public, as their service is better in the interest of where their salary comes from, than anywhere else. While these are supposed to be State officers, they don't serve the State, only in the interest and by their commands of the corporations—he is not independent."

He further stated, regarding the Freez riot: "The mill police, Mr. Justice, seemed to stand around with his hands in his pockets, only doing what the mill management told him; otherwise he would have prevented the riot if he had been acting independent."

"Think the legislature could change this law, that all State officials should be paid by the State, and not some public corporation to pay and use them in the interest of their individual welfare."

[Greenville (S. C.) Home Circle.]

THE REASON WHY.

Little babies thrown out into the streets, together with household effects. Can you imagine the cause? Not for a crime; not for lack of industry; not for lack of efficiency in work; not for lack of morality, because the religious pictures that were hanging on the walls with this inscription: "Jesus is the Head of this House"; that proves these people were religious. Well, what? Why were they thrown out into the street? Because the workers joined a labor union; and this is the punishment decreed and operated by capital. Just because a man exercised his rights of citizenship—independence—he must be thrown out of a home, and these little babies must suffer.

Thrown out by Judson mills just because they would not yield to slavery and ignorance, and domination of capital.

[Greenville (S. C.) Home Circle, Feb. 10, 1916.]

The Keating child-labor bill meets with favor in Congress. It passed by a vote of 337 to 46. This bill prohibits the interstate shipment of the products of child labor, under a heavy penalty, but excepts boys and girls' clubs.

If the bill passes the Senuate it then becomes a law. And it will be of a great benefit to all mill workers. It means better pay for the grown people that have children. It gives the children the benefit of education, while it don't prohibit children from work on the farms. And it don't prohibit children from working in cotton mills, but it does prohibit the shipping of child-labor products outside of the State on which it is produced.

[Americus (Ga.) Herald.]

STATE WILL NOT PROVIDE FACTORY INSPECTOR TO ENFORCE CHILD-LABOR LAW.

There will be no adequate enforcement of the Georgia child-labor law for at least another year. At the extraordinary session of the legislature there was no mention of the bill to provide a factory inspector among the six subjects for legislative action. At present the commissioner of labor is charged with the enforcement of the child-labor law in addition to the "collection, collation, and dissemination of information and statistics concerning labor in its relation to capital; location, capacity, and output of mills and factories; quantity of raw material used by them annually; location and horsepower of valuable water powers," etc., for which work he is provided with two office assistants.

The bill providing for an assistant factory inspector to enforce the child-labor law was favorably reported by both house and senate committees at the last session, and the governor was urged by the Department of Labor, the labor unions, and other friends of child-labor reform to include it in the program for the extraordinary session.

"This is one of the occasions when we realize more strongly than ever that a Federal child-labor law is the most important goal in the campaign against child labor," said Dr. A. J. McKelway, the National child labor committee's secretary for the Southern States, who has just returned from Atlanta. "For years we have fought to improve the child-labor law in Georgia, and last year we did succeed in raising the age limit from 12 to 14, with the exemption for poverty raised from 10 to 12 years. But now the State refuses to provide for the enforcement even of that mild law. If we had a Federal law we would not have to wait for the Georgia Legislature to take action. The law could be enforced by Federal inspectors."

[Rome (Ga.) Herald, Feb. 6, 1916.]

THE CHILD-LABOR BILL.

The Keating child-labor bill barring from interstate commerce the products of child labor has passed the National House of Representatives by a vote of 337 to 46. This is probably a forerunner of what will happen in the Senate. Under the provisions of the bill a heavy penalty is imposed for interstate shipment of any commodity made in whole or in part by children under 16 years of age.

Unless the children are protected the foundation of the Government will soon begin to totter. There have been from time to time enacted in all States child-labor laws. The great trouble has been that these laws have never been enforced as they should be. Usually the lobbyists in the State capitals have managed in some sagacious way to add a rider to the child-labor bill which effectually impedes the real purpose of the law. Now that the Federal Government has taken a hand in the game of child protection the children of the future will be substantially looked after.

The Keating bill has been a source of contention for some time. It was prepared during the last session of Congress but was not presented at that time. Now that it has been passed with such a convincing vote in the lower House its ultimate passage in the Senate can be safely predicted, but it is not probable that the vote will be so emphatic.

[Americus (Ga.) Times-Dispatch.]

CHILD-LABOR LEGISLATION.

The lower branch of Congress is said to be ready to again pass the Keating child-labor bill, which would prevent shipment across State lines of the products of the labor of children under a certain age. It is the belief that the Senate will attempt to die without action, just as it did last session. This will be more difficult, however, because the life of this Congress—two years—began in December, and friends of the measure in the Senate, if they be sincere in their desire to get the bill on the statute books, can make life very miserable for its opponents.

Southern Congressmen are, as a rule, against the measure. Some of their biggest industries employ children extensively and the claim is that if this class of labor is denied the employer the industry would be compelled to close.

There has been a marked advance in Congress in the past few years against the highly objectionable kind of child labor. When Senator Beveridge demanded restrictive legislation along about 1906 he was looked upon as a visionary and his bill went to the Judiciary Committee, where it was put to death on the ground that it was unconstitutional and therefore not fit to be even discussed in public place.

The thing is very much alive, however. Some day it will become a law.

[Augusta (Ga.) Herald, Feb. 11, 1916.]

GOOD REASONS FOR DISCOMFORT.

"We pray for the uncomfortable, who do not care for anything so long as they are left at ease." From a prayer by Rev. Levi M. Powers at the inauguration exercises of the Gloucester, Mass., municipal council on January 17.

There are many classes of these comfortable persons, and sometimes it becomes society's duty to stir them up a little bit. Just now there is the Keating-Owen bill, concerning which some prosperous, charitable, and altogether complacently comfortable persons prefer to remain in ignorance.

The Keating-Owen measure was introduced into Congress with the object of prohibiting the shipment in interstate commerce of goods in the production and manufacture of which child labor has entered.

Many very comfortable persons do not care to know that State legislation has not protected little children from exploitation. There are, in fact, a dozen States with very good child-labor laws—from which the canning industries are carefully exempted.

And so tots of 5 and 6 are permitted to snip beans or top cans from 4 a. m. for just as many hours as they can be kept awake in the season of ripe vegetables; and in certain fish canneries children of 8 and 10 work 15 and 16 hours a day in the busy season.

Details of some of the glass works of Pennsylvania, the coal mines of West Virginia, and the textile mills of Georgia, Alabama, and Mississippi would stir up a considerable amount of unrest among the comfortably ignorant if they would read the reports of the national child-labor committee.

The main opposition to the Keating-Owen bill in the Senate is expected from the southern cotton-mill interests, but—and this a most disturbing bit of information—these mills are often owned by members of New England corporations.

How can you help, not being a Senator or a southern mill owner.

You can help to stir up the too comfortable about the condition of child labor and they will see to it that the Senate becomes uncomfortable enough to pass the Keating-Owen bill.

[Macon (Ga.) Telegraph.]

OUR WORKING CHILDREN.

Southern cotton mills are under fire, and defense as well, at the meeting of the Annual Child Labor Conference in Asheville. The child-labor workers contend conditions throughout the South are pretty bad—worse than anywhere

else—while the representatives of southern textile manufacturers recriminates about terrible conditions in the tenements of New York and asks the child-labor workers if they have ever done anything to help the families so oppressed in the South. A bootless argument and designed to do harm to honest folks on both sides of the fence.

The Telegraph is not going to join the one-two-three-all-together-now-boys chorus of defense for the southern cotton mill, because there are a great many things about a great many of them that can not be defended. We do work a lot of children who are too young to work, even though Georgia, for instance, has a pretty fair sort of a law in this respect. The jokers in all child-labor legislation in the South, however, pretty well tie the hands of even those who would be militantly in favor of stopping the abuses.

As for Mr. Carter, he is declaiming against the charge that children work to keep grown folks in idleness and comfort. Is that not true? Cases like it in Macon are constantly cropping up, and this is not a city of nonresident mill ownership. Nearly all operators and owners of Macon cotton mills live on the spot with their mills, and for that reason watch for abuses and remedy them where possible. In other cities, however, where hired officials are in sole charge, the situation is pretty bad—an old story to Southern people, who open their eyes every once in so often and take a look around them.

The Telegraph stands to defend Georgia and the South from unjust attacks, but where we are weak and where we are wrong our own aroused public consciousness of it is the only thing to do us any good. Even if somebody in Illinois or Wisconsin tells us something unpleasant about ourselves, we have no holler coming if the charge is true. And a good many things said about us are true, and when they are the Telegraph does not propose to "patriotically"—demagogically—lie about it just to keep the sinners feeling comfortable.

[Macon (Ga.) Telegraph, Feb. 8, 1916.]

MILLS AND CHILDREN.

The Telegraph realizes the seriousness of the cotton mill as a factor in the social development and progress of the South. Increasingly industry is following its natural bent and getting the manufacturer as close to the producer as possible, and so we are getting more and more textile mills each year because we are the textile staple producers. There is much to be said against the cotton mill's coming. It really doesn't help the community much, if it does not actually injure the standard of the race itself. A few people are bettered by them, a great many are affected in just the opposite.

The worst feature, of course, is the effect of the work, the pay roll and its limitations, on those who tend to the spindles all day long. Not much is paid for this work, because it is not, as a matter of fact, worth much. Again, even these pay rolls can not be met unless the mill owner sells his product at a profit. If he makes any substantial increase in wages or reduction in hours and the other fellow doesn't, the only thing accomplished is the certain bankruptcy of the man who wanted to do better by his employees. But something has to be done. We've got to quit working our children, and that means raising the wages of adults.

For instance, let us look into the attitude engendered on the part of many mill owners by the necessities, if such they be, of their business, as exemplified in the hearings before the committee looking into Federal child-labor legislation. David Clark, editor of the Southern Textile Bulletin, is on the stand:

"Congressman KEATING. Did the mill owners of North Carolina, in effort to ameliorate the condition of the employees, support Gov. Kitchin in his recommendation? (This was a recommendation for rigid inspection of factories.)

"Mr. CLARK. I did not favor inspection.

"Congressman KEATING. Was that because you did not have faith in the State inspectors, or because you had a good deal of faith in the mill owners? * * *

"Mr. CLARK. It is largely a grafter proposition. * * *

"Congressman LONDON. What do you mean by a grafting proposition?

"Mr. CLARK. I am not prepared to give you the facts, but my understanding is that if you pay, you get a clean bill of health.

"Congressman LONDON. You believe your mill owners would resort to corruption in order to escape a fair inspection?

"Mr. CLARK. Not more than any others; not more than was necessary.

"Congressman LONDON. You mean they would resort to corruption of a Government official?

"Mr. CLARK. Well, yes; if they were held up."

Asked about compulsory education—which in the opinion of the Telegraph is the only real solution of the problem—Mr. Clark gave voice to the following rather remarkable indictment against the statesmanship of North Carolina of which those who come from it boast so loudly and lustily:

"When these people (the families of the operatives) come from the mountains they do not believe in education. That is the reason we do not have compulsory education in North Carolina, because the isolated mountain districts would go Republican if we forced compulsory education upon them."

According to the New Republic, which is giving these rather remarkable confessions some passing but exceedingly keen treatment, ex-Gov. Kitchin remarked that "the cotton mill furnishes an opportunity for light and remunerative work for children"—on which the New Republic remarks: "That is, 10 hours work a day. A sort of light refreshment." Continuing, Kitchin, hired to represeent the mill owners, says: "Children 12 and 14 years old can do just as good work as a 30-year-old man with the work he is doing, and take care of the family. I think that is a blessing." Followed him a doctor employed by a cotton mill who said that a girl of 12 may be employed in a cotton mill 11 hours a day without injury.

The following are excerpts taken from the testimony of mill owners and their representatives at the hearing:

"If a mill operating 11 hours a day employs children only 8 hours it would probably require additional machinery.

"The cotton mill has done more than anything else in the South to save the people from the farm.

"If this law passed, and the younger children were taken out of the mills, the families would go back to the farm.

"If this bill passed it would affect 35 children between 14 and 16 in our mill of 400 people. This would necessitate our building eight new houses to take care of the new families that would be brought in.

"A roll of cotton cloth made by child labor is just as long, just as wide, just as white, and just as good as if made by adults.

"Congress never tried between 1830 and 1860 to prevent interstate commerce in the products of slave labor.

"You can't fix an age limit for child labor any more than you tell when a pig becomes a hog."

[Montgomery (Ala.) Journal, Feb. 19, 1915.]

CHILD-LABOR BILL AND OVERWHELMING SENTIMENT BEHIND IT.

The Keating bill to bar from interstate commerce the products of child labor, which passed the House February 2 by a vote of 337 to 46, a majority which even surprised friends of the bill, is one of the most stringent in some of its features of any reform measure that has yet passed that body.

The bill provides heavy penalties for interstate shipment of any commodity produced in whole or in part by children under 16 working in mines or quarries or by children under 14 working in mills, canneries, workshops, or manufacturing establishments.

Where children are employed at night or more than eight hours a day in this latter class of industries the minimum age is 16 instead of 14.

While a few Members of the South voted against the bill, the Record shows that, with the exception of one vote, that of Parker, of New Jersey, a Republican, not a single Member from the Northern and Western States voted against the bill.

The opposition from the southern Congressmen who opposed the measure was based upon the theory of State rights. Representative Webb, of North Carolina, chairman of the Judiciary Committee, speaking from that viewpoint in opposition to the bill, argued employment of the children in occupations that destroy health and prevent development was a matter that should be left for each State to decide for itself. He held that the unrestricted employment of children heretofore had not prevented the development of many successful men who had suffered the hardships of labor in their childhood.

This statement by Webb brought a very vigorous and effective protest from Representative Garland, Member at Large from Pennsylvania, who told the

House that he was one of the men referred to by Mr. Webb as having succeeded despite the hardships of his early life.

It was because of what he had to go through and the suffering he endured as a child that he wanted to aid in protecting all other children from similar experiences.

A Washington correspondent, in commenting on the passage of the bill, expresses the opinion that "the tremendous vote against the effort to invoke State rights to continue a national wrong must be regarded as evidence of the breaking down of the old State-rights sentiment, even among Democrats. The southern men opposing this bill offered all the old arguments against the invasion of State authority by the Federal Government without making the slightest impression upon anyone but themselves."

"Northern and western Democrats and a number of southern men also," he says, "merely laughed at the suggestion that an evil should be allowed to continue because it is sanctioned by a State."

This is the same argument that has been used against the passage of a national prohibition amendment and the legislation against the conservation of natural resources.

[Galveston (Tex.) Tribune.]

THE CHILD OR THE MILL.

Quite recently the Committee on Labor of the House of Representatives at Washington approved a bill having for its purpose the discouragement of child labor. The provisions of the measure forbid the passage outside the State in which were originated the products of mines, quarries, or mills the result of child labor. It was expected that most of the opposition to the proposed law, if any opposition developed, would come from the factory regions of New England or the mining fields of Pennsylvania, but the surprising development in connection with the measure was that the most vigorous opposition to its passage came from Representatives of the Southern States. While the South has very few mines and not enough factories to be entitled to much space in tables of statistics, it is known that this section has for years been anxious that the cotton factories of the Nation be established where they logically belong—in close proximity to the cotton fields, in the section where most of the raw material is produced.

New England has succeeded in almost eliminating child labor from its mills and factories, substituting cheap labor from Europe. This still leaves New England fairly strongly entrenched against all efforts to wrest the cotton manufacturing business from that section, and this has apparently strengthened the opposition to the child-labor proposition, the Southern Representatives advancing the argument that the passage of this measure will kill forever any hope that the South may entertain for the establishment of cotton mills in the cotton belt. South Carolina is about the only State in the South in which cotton mills are being operated, and it is pointed out that these mills have been able to exist only because of the employment of children.

It may be true that conditions in the South Carolina mills are much better than they were in the New England cotton mills during the time children were worked, but even ideal conditions will not warrant the steady employment of children of tender age for long hours and in the close atmosphere of a factory with its lint-laden air and disagreeable odors which no factory has ever been able to entirely eliminate. There are men, plenty of them, who would not accept financial gain at the cost of a child's health, but they are never brought face to face with conditions as they actually exist and probably believe that their dividends are earned honestly, but there are others who would take advantage of anything that offers that their incomes might be made to show an annual increase, and it is against these avaricious ones that such laws as the one proposed are made.

No one argues that a child should not be made to work, but the work should be suited to the ability of the child and ample provision should be made for the recreation of those who are to in the future carry the burdens of society, commerce, and State.

There are too many children whose parents have the wrong idea in connection with child rearing, and consequently deprive them of one of the greatest blessings God has given the human race—the privilege of work—but this is no justification of placing adult burdens on youthful shoulders and lengthening the hours of toil until the frail body weakens and succumbs to the load.

The child is not the chattel of the parent. The State has a right to demand that certain provisions safeguarding the life and health of the girl or the boy shall be observed. We see the justice of holding back the stroke that would inflict needless pain upon some dumb brute; we establish hospitals and resorts for the treatment of children who may be afflicted with insidious diseases, frequently when we know that these maladies have been brought on through ignorance or the avarice of parents or those who esteem a dollar above a life, and there is not the least inconsistency in our attacking this evil at its fountain head and seeking to prevent the spoilation of our young rather than to undertake the reconstruction of the weakened body after it has been subjected to a treatment acknowledged to be harmful, yet which is permitted because of financial or commercial considerations. A thousand cotton mills in the South would not begin to compensate for the life of one child, and we have good reason to blush that our Representatives see this matter from a different point of view.

[Dallas (Tex.) News, Feb. 8, 1916.]

THE HOUSE VOTES 337 TO 46 FOR THE KEATING BILL.

The Keating bill to exclude the products of child labor from the channels of interstate commerce passed the House by a vote of 337 to 46. The passage of the bill was clearly foreseen, but an agreement so nearly unanimous was hardly to be expected.

The measure now goes to the Senate. That body has been, in time past, something of a citadel for the opponents of child-labor legislation. Defeated everywhere else, they have been able to retire into the Senate and hold out against public sentiment. Undoubtedly the Keating bill will encounter the same stubborn opposition in the Senate that its several predecessors have. But the Senate must be somewhat impressed and persuaded by the size of the majority in the House, made up as it is so largely of men who are shrewd and unremitting in their efforts to find out what is wanted of them. To the Senate this huge majority must signify that public opinion not only desires but demands the enactment of this measure. If the bill shall fail in the Senate, it is likely to be because its opponents filibuster, for the indications are they will not be able to muster a majority.

Aside from the impressiveness of the vote, the most interesting incident in the House was the emergence of Mr. Cannon. Mr. Cannon bade the House take note of the circumstance that there are no child-labor laws in Canada. From that he advanced to the further proposition that American canners are in competition with Canadian canners. Thus fortified with premises, Mr. Cannon concluded, in the form of an amendment, that American canners ought to be exempted from the requirements of the law.

From which one must infer that, in the estimation of Mr. Cannon, it is proper to conscript from the schoolhouses when only an army of children can save us from commercial invasion. Happily, the House did not concur in this view.

[Galveston (Tex.) News, Jan. 28, 1916.]

PURPOSE OF THE KEATING CHILD-LABOR BILL.

Representative Webb, of North Carolina, says the Keating labor bill is an attempt to violate the Constitution of the United States, and that the success of it "would mean that Congress could enter your State and take charge of its factories." Just what the statement last quoted means is not clear, nor is it likely that Mr. Webb could give any very explicit definition of it. If it is intended to express the belief that the passage of this bill would remove all limitations on the exercise of Federal power in the several States, the statement is quite absurd.

It ought not to be necessary to remind anyone that this bill, if enacted, would not forbid the employment of children, or even babies, in the mills of North Carolina or any other State. It would permit the working of children, since, indeed, no one pretends that Congress has the authority to forbid the working of them; but it would declare that the products of the labor of children under 16 years of age shall not be admitted into interstate commerce. Hence, it would result that the State would retain all of its present authority and determine whether it will permit the employment of children or not. There

would be no restraint on the sale of the products of their labor within the State, but, as has been said, those products could not be sold beyond the State. Of course the practical effect of the bill would be to compel all manufacturers who care to engage in interstate commerce to observe the requirements of the act with respect to the employment of children. Manufacturers within the States would be under a constraint imposed on them by the Federal Government, and it is this circumstance which has probably incited Mr. Webb into making the statement quoted. One of the purposes of the bill is, of course, to emancipate very young children from the mills in those States which permit this industrial serfdom. But another purpose of the bill is to protect manufacturers who employ adults and pay adult wages from the competition of manufacturers who employ children and pay children's wages. Certainly this is a regulation of interstate commerce that falls well within the contemplations of the Constitution.

[Beaumont (Tex.) Enterprise, Feb. 7, 1916.]

The fight made by southern Congressmen against the Keating antichild-labor bill which passed the House Wednesday was not creditable either to them or to the people whom they represent, for while the bill, if it passes the Senate and becomes a law, will not have the effect of preventing child labor in the several States when the manufactured product is sold only within the State, it goes, probably, as far as the Federal Government can proceed against an industrial evil.

Representative Webb, of North Carolina, opposed the measure on the ground that it was urged by New York women of the idle rich class "to strike against three or four States of the South," who "will probably next Sunday wear on their hats flowers made by tiny little children of New York's tenements that never see the sunlight."

"This is unfortunately true," as the Meridian Dispatch observes. "We of the South can not sympathize with our critics in the North who behold not the beam in their own eyes; our villifiers who decry 'rotten industrial conditions'; and the blind who can not see that child labor in tenement houses is not comparable with child labor in the cotton fields.

"We have our own child-labor problems, however, and if the Federal Government can discourage a form of child slavery, whether it happens to be in Georgia or Alabama or Pennsylvania or New Jersey, we should support it."

[New Orleans (La.) Picayune, Jan. 21, 1916.]

But while there has been a great deal of opposition from the South to the passage of this law on the ground that it is an invasion of State rights it is getting more and more support every day from this section. The matter is being discussed at length and the public is better informed. Latterly the campaign against child labor has been conducted almost entirely on this side of the Ohio. The first demand was for State legislation and regulation and in nearly all of the States laws were secured on this subject. The contest in Louisiana during Gov. Sanders's administration will be remembered, and it gave us far better legislation than had been previously in force. A conference of the Southern States was held to consider the question and assure cooperation, but it was found impossible to reach an agreement, those States operating most of the cotton factories refusing to make concessions and insisting that the success of the industry in this section as against the New England factories was largely based on cheap child labor.

At the conference in this city it was announced that it was hopeless and impossible to persuade those States which had not acted to do so, and that the only chance of success lay in Federal legislation based on the interstate-commerce provision. This gave new life to the child-labor bill now before Congress and which is being pushed more vigorously than ever.

It would be absurd to venture any guesses as to whether or not the bill will pass Congress at this session, but all the indications are that it will be placed on the statute book sooner or later, and probably at an early day. The sentiment of the country has been growing steadily stronger against child labor as not at all necessary to the success of any industry, and the argument of cheaper labor becomes weaker every day as we realize that good and fair wages are to the interest of the country as a whole. The argument as to the cotton mills is an argument against the South. If mills in this section, situated in the

cotton fields themselves, can not compete with those a thousand miles away, then the industry is in a very discouraging condition. The assertion that southern mills can not handle a southern product without cheap child labor is incredible—a slander on this section.

[Tampa (Fla.) Times, Jan. 10, 1916.]

DEFENDS CHILD LABOR.

Former Gov. Kitchin, of North Carolina, told a story to the Labor Committee of the House of Representatives at Washington the other day that should make the good people of North Carolina bow their heads with shame. It must be very humiliating to have one of the "biggest men" of a State go before a national body and say, as Mr. Kitchin said, that child labor is an economic necessity in his Commonwealth. Now, Mr. Kitchin did not use exactly those words, but that is what he meant when he defended the employment of children in the cotton mills of North Carolina. He was "ably" backed in his statements by David Clark, who edits a journal at Charlotte devoted to the textile industry. We take it that Mr. Clark is devoted to the business that brings him his bread. Not to be wondered at, of course, but it is not quite so comprehensible that a man would lend himself to the enslavement of helpless children in such a behalf.

Mr. Kitchin told the committee, which had under consideration the Keating-Owen bill designed to prevent interstate shipment of goods manufactured with the aid of child labor, that, "We of the South oppose this measure because we believe our people who have to work should be permitted to do so. We have many of this class and the cotton mills afford them an opportunity to earn a good living. I think it cruel to drive a 15-year old boy out of a mill if he has anyone to support.''

In answer to the question whether mothers' pensions would not remove this alleged necessity, Mr. Kitchin made this remarkable statement: "Our State is unable to take care of its poor." He could more truthfully have said: "Such men as myself in our State do not care to assume the burden of aiding the unfortunate." It would have been much closer to the actual truth.

But let it go at that. The fact is, it is the Kitchins of this world who are determined to wreak profit from the twisted, stunted bodies and undeveloped minds of the helpless young. They are willing to deprive the helpless, to the profit of their own pockets. A sin? Yes, and more. They need to be set aside, and if legislation such as that contemplated in the Keating-Owen bill be necessary to set them aside, the quicker it is passed the better.

Thank heavens the Kitchins are not representative of the good people of the South. They are merely an undesirable class; the Scrooges, as it were, who have not yet awakened to the rights of the Tiny Tims of the land!

[Tampa (Fla.) Times, Jan. 27, 1916.]

STATES' RIGHTS, COTTON MILLS, AND CHILD LABOR.

The question of States' rights has been injected into the fight against the Keating child-labor bill, now before Congress, and warfare on the measure, led by some southern Senators and Representatives, will be bitter.

The southerners who present strongest opposition to the measure represent States in which cotton mills are located, and therefore their fight is made in behalf of cotton-mill interests, headed by New England and southern capitalists. It seems almost impossible to place a decent child-labor law on the statute books of these States, which is anything but creditable to their political leaders and legislators. We object to Government interference with States' rights, but the spirit of protection demands that something be done in behalf of the toiling children of Commonwealths, the political representatives of which positively refuse to "see the light."

[Meridian (Miss.) Star, Jan. 4, 1916.]

CHILD-LABOR BILL NOT SECTIONAL MEASURE.

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and becomes a law, will not have the effect of preventing child labor in the several States when the manufactured product is sold only within the State, it goes probably as far as the Federal Government can proceed against an industrial evil.

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This is unfortunately true. We of the South can not sympathize with our critics in the North who behold not the beam in their own eyes; our villifiers who decry "rotten industrial conditions"; and the blind who can not see that child labor in tenement houses is not comparable with child labor in the cotton fields.

We have our own child-labor problems, however; and if the Federal Government can discourage a form of child slavery, whether it happens to be in Georgia or Alabama or Pennsylvania or New Jersey, we should support it.

[The Journal of Labor, Atlanta, Feb., 1916.]

TRAFFICKING IN CHILDREN.

It was a brave thing for William Schley Howard to take the stand he did in the National House of Representatives when the bill to limit the product of child labor to the State of its production was up for consideration, and which passed the House with a splendid majority. Mr. Howard's championship of the child as against its exploiters represented the true spirit of the thoughtful South.

There was, of course, the usual pathos about helpless and necessitous widows, and old Joe Cannon, who was resurrected by his Illinois constituents last year, had his usual stock of replated platitudes about the possibilities of poverty-stricken youth being transformed into millionaires provided they went to work early enough. However, those old stock arguments are not like the capitalization of child-exploiting corporations—they don't hold water. Despite the ranting of of the Cannon-Chadbands, social justice is a reality, and it is on the march.

Under the rule of the plunderbund a law prohibiting the trafficking of children would never have passed, and by the same token a Louis D. Brandeis would never be nominated for the Supreme Court of the United States—the final legislative arbiter in the land.

And by a parity of reasoning the days of the Joe Cannon will be ended when a social justice shall prevail. The national conscience is awake, the voice of organized labor insistent for years, but unheeded until labor stormed the strongholds of the politicians and took many of them captives to obscurity. The South will soon step into the political arena prepared to "reward its friends and punish its enemies."

The misapprehensions concerning the purposes of the bill are shown in the following extracts from editorials opposed to this legislative reform. These extracts from the Charlotte (N. C.) Observer and the Charlotte (N. C.) Manufacturer are appended without comment:

[Charlotte (N. C.) Observer, Jan. 29, 1916.]

THE POINT.

The New York Sun's information is to the effect that the Keating child labor bill has been given precedence over all other measures on the calendar until a vote is taken. At the same time we are informed that the efforts to tack amendments to it which would bar fish and canned goods, in the production of which children under 16 years of age were employed, from being shipped from one State to another, as well as the cotton goods of the South, were unavailing. It would be all right to shut down on the southern cotton mills, but the canneries and fish-packing plants of the North and New England must not be interfered with. Catch that? At least we hope the Senate will when the bill comes up for a vote.

[Charlotte (N. C.) Manufacturer, Jan. 13, 1916.]

CHILD LABOR HEARING.

Last Monday the House Labor Committee heard arguments in Washington on child labor in southern cotton mills. A delegate of southern mill men, headed by former Gov. W. W. Kitchin, of North Carolina, presented the objections of textile manufacturers of the South to the Keating-Owen bill, which would prevent the interstate shipment of goods manufactured by aid of minors.

Mr. Kitchin attacked the bill from an economic point, declaring it was unconstitutional and unwise. Others followed, showing the advantages to the youth employed in the mills. It was clearly brought out that child labor in the South differs in every way from child labor in the North and East.

New England is backing the fight for the bill, and apparently solely for financial reasons—New England mills can not compete with southern mills unless labor conditions in the South can be changed to suit New England manufacturers.

Posing as philanthropists, humanitarians, and what not, the leaders in the movement for abolition of child labor in the South have misrepresented every condition and circumstance surrounding Southern mills. Who financed these agitators and extremists? An investigation might lead to some startling disclosures in connection with the passage of that bill by the Senate at its prior session. Money was used lavishly, it is claimed, and the ones who furnished that money had a financial object in view.

The employment of children in southern mills is developing those children into educated, self-sustaining individuals, and benefitting a race of people who would otherwise be handicapped in industrial training. Mill villages are the opposite of very many in the North, and represent the highest regard for the health, happiness, comfort, and welfare of the employees.

From the hearing conducted this week to get facts before Congress, it is believed the Owen bill will be defeated in the lower House.

Mr. McKELWAY. I suppose it is worth while for me to refer to a vote in the House on this same bill, in which out of 150 Members from the South only 45 voted in opposition to the bill. There was only one man north of Mason and Dixon line who voted against the bill, Mr. Parker of New Jersey.

I claim that the South is in favor of this reform just as the North and the West are in favor of the reform. I claim that the fact that southern legislatures have advanced in taking care of this problem is one evidence of that. In fact, the legislatures are behind the people; that is, that they have not advanced so fast as the people have.

We had a very instructive instance of that from Arkansas. Arkansas has the initiative and referendum. We went to the legislature two or three times trying to persuade it to enact a child-labor law with these uniform standards. The legislature refused to do it, and at last we initiated the legislation. The law required us to get 13,000 names on our petition. We got 25,000, and when it was put to a vote of the people, 73,000 voted for it, as against 25,000 opposed to it. The law ran next to the governor in the number of votes cast.

Now Arkansas is a pretty fair average Southern State; and that is what the people thought about child labor—the only State of the Union in which the child-labor law has been initiated.

Now, it is the very old story, Mr. Chairman, that the next restrictive act in legislation will lead to the ruin of some industry or the great injury of some industry. I remember reading in Dickens's Hard Times a statement about Coketown, which is the town in which the story is located. I suppose this was written about 75 years ago (1854).

Dickens says:

The wonder was, it was there at all.

That is, Coketown.

It had been ruined so often, that it was amazing how it had borne so many shocks. Surely there was never such fragile chinaware as that of which the millers of Coketown were made. Handle them ever so lightly and they fell to pieces with such ease that you might suspect them of having been flawed before. They were ruined when they were required to send laboring children to school; they were ruined when inspectors were appointed to look after their works; they were ruined when such inspectors considered it doubtful whether they were quite justified in chopping people up with their machinery; they were utterly undone when it was hinted that perhaps they need not always make quite so much smoke. Another prevalent fiction was very popular there. It took the form of a threat. Whenever a Coketowner felt that he was ill-used, that is to say, whenever it was proposed to hold him accountable for the consequences of any of his acts, he was sure to come out with the awful menace, that he would "sooner pitch his property into the Atlantic." This had terrified the home secretary within an inch of his life on several occasions.

I think I have shown that there is no serious opposition to the 14-year age limit as a standard. The main objection is to the eight-hour day for children under 16. The cotton-mill industry is organized in a peculiar way as you have heard. The different departments of the mill must keep together, in the average well-organized mill, and there has been some testimony offered as to how difficult it would be to adopt an eight-hour day for children under 16. In the first place, Massachusetts is the greatest textile State in the Union—the greatest cotton-mill State in the Union. I think South Carolina ranks next to Massachusetts in the number of spindles, and I think Rhode Island comes next to South Carolina. North Carolina has more mills, but they are smaller mills on the average and they do not have as many spindles.

I have here the statement of Richard K. Conant, who is secretary of the Massachusetts Child Labor Committee as to the operation of the eight-hour day and the effect upon the Massachusetts mills, which I think is very helpful.

Mr. KITCHIN. Have you the information—I have been unable to find it—as to how many operatives between 14 and 16 there are in the Massachusetts mills? What he read yesterday included the mechanical operations and not the factories.

Mr. MCKELWAY. I have not the information for the cotton mills. In the whole textile industry 14,642 children from 10 to 13 years of age; 65,000, from 14 to 15, making 80,000 in all under 16. That is from the census of the United States in 1910.

The ACTING CHAIRMAN. Is that for Massachusetts alone?

Mr. MCKELWAY. That is for the whole country. That embraces cotton mills and silk mills.

The ACTING CHAIRMAN. Are they divided into States?

Mr. MCKELWAY. They are not divided in this table. The number of children in the different States in mechanical operations are divided here and perhaps that table might with advantage be printed.

The ACTING CHAIRMAN. Very well.

The table referred to is as follows:

Table IV indicates the number of children, according to the census of 1910, who might be affected by this measure, disregarding the fact that some of the States have improved their legislation since 1910, notably Massachusetts, New Jersey, Pennsylvania, Alabama, Georgia, and South Carolina.

TABLE IV.—*The latest official figures on child labor.*

[Compiled from United States Census of Occupations, 1910.]

	Manufacturing and mechanical (specified occupations).		Extraction of minerals (specified occupations).			Manufacturing and mechanical (specified occupations).		Extraction of minerals (specified occupations).	
	10–13 years.	14–15 years.	10–13 years.	14–15 years.		10–13 years.	14–15 years.	10–13 years.	14–15 years.
Total	27,005	176,137	2,266	15,401	Montana	8	78		9
					Nebraska	31	313	1	9
Alabama	2,003	3,141	486	933	Nevada		2	3	4
Arizona	5	45	3	28	New Hampshire	63	2,067		9
Arkansas	324	654	11	73	New Jersey	259	10,020	3	26
California	81	1,581	4	43	New Mexico	29	90	10	42
Colorado	29	380	33	178	New York	518	18,502	3	47
Connecticut	43	4,246		7	North Carolina	6,344	8,475	15	27
Delaware	34	373		1	North Dakota	11	53		
Dist. Columbia	3	102			Ohio	370	8,763	47	793
Florida	668	1,520	53	69	Oklahoma	70	359	9	47
Georgia	2,784	4,338	35	78	Oregon	29	256		1
Idaho	10	74			Pennsylvania	1,212	30,688	529	7,695
Illinois	398	9,992	26	215	Rhode Island	81	4,712		4
Indiana	289	4,743	28	557	South Carolina	4,154	5,506		
Iowa	128	1,473	29	311	South Dakota	1	72		6
Kansas	66	572	17	167	Tennessee	1,029	2,289	188	663
Kentucky	488	2,483	168	522	Texas	734	2,204	20	87
Louisiana	449	1,736	2	1	Utah		94	3	18
Maine	154	1,996	2	9	Vermont	18	259	2	36
Maryland	849	4,028	45	242	Virginia	1,337	3,568	152	469
Massachusetts	279	18,275		25	Washington	51	586	1	31
Michican	103	3,258		75	West Virginia	298	1,317	318	1,521
Minnesota	85	843	3	19	Wisconsin	81	3,670	2	16
Mississippi	556	1,069			Wyoming		17	1	39
Missouri	389	5,255	14	249					

Industries affected.—The census of 1910 shows a distribution of the children of the several States among the industries that will be more or less affected by the operation of this bill if enacted into law, according to the following table:

Industry.	Children reported.			Industry.	Children reported.		
	10 to 13	14 to 15	Total.		10 to 13	14 to 15	Total.
Quarries	224	1,120	1,344	Food and kindred industries	972	10,245	11,217
Liquor and beverage industries	115	1,327	1,442	Leather industries	406	11,592	11,998
Chemical and allied industries	187	3,132	3,319	Printing and bookbinding	622	11,482	12,104
Paper and pulp industries	154	4,652	4,806	Mines	2,241	14,877	17,118
Metal industries (except iron and steel)	252	6,971	7,223	Iron and steel industries	951	19,518	20,469
Clay, glass, and stone industries	1,234	9,161	10,395	Lumber and furniture industries	4,367	17,418	21,785
Cigar and tobacco factories	1,843	8,723	10,566	Clothing industries	1,113	22,158	23,271
				Miscellaneous industries	2,064	28,093	30,157
				Textile industries	14,642	65,888	80,530

Mr. KITCHIN. As I recollect it, that made 18,500 of those ages in Massachusetts.

Mr. MCKELWAY. Mr. Conant states—and, I will say, this was printed two years ago:

In 1913 Massachusetts took the advanced step of limiting the labor of children between 14 and 16 to eight hours a day. The law was enacted after most careful and thorough deliberation, after many debates which brought out all conceivable arguments for and against it.

Greatest insistence was placed by the opposition upon the alleged fact that under the law the children would not get the benefit of the eight-hour day, but would be discharged entirely. It was pointed out that children could not be em-

ployed in a mill for 8 hours while the adults and the machinery were working 10 hours. The result would be, said the manufacturers, that the children would spend their time in dangerous and unprofitable idleness and be worse off than when at work 10 hours a day, and that the wholesale hardship among families would be greater than public relief or private charity could alleviate.

The test which the law has had since it went into effect last September proves that the law has not had any such results. The law has been successful and is working well. The fact is that very nearly all the children who were at work when the law went into effect are to-day at work in the same occupations, that the small proportion who have lost employment have returned to school, and that there has been no perceptible increase in family hardship.

When the bill went into effect it was subjected to a storm of protest and criticism, based on the misapprehension that the law prohibited the employment of children under 16. The newspapers estimated that about 25,000 children under 16 would be thrown out of employment. During this period of newspaper agitation the special recess committee of the legislature on child labor made its investigations, giving hearings from two to six weeks after the bill took effect, and asking manufacturers, by letter, how many children were discharged. Four thousand and twelve children were reported to the committee as discharged in the 10 principal manufacturing cities of the State. One hundred and seventy of the 250 employers who replied—68 per cent—added that they had reemployed some of the children discharged. The report of the committee stated, in December: "Many employers who declared in September that it would be impossible for them to arrange their schedules so as to permit the employment of boys and girls between the ages of 14 and 16 for not more than eight hours a day have found that a little study will permit them to do so."

A questionnaire sent by Deputy Commissioner of Education Small to all superintendents of schools shows the situation in November, 1913. Two hundred and thirty-four cities and towns where there were industries which employed 14 to 16 year old children replied to the questionnaire; 211 of the 234, nine-tenths, reported that the industries had adjusted themselves to the law and that the children were not thrown out of employment. Of the remaining 23 cities and towns, 10 were of slight importance. Of the 13 cities and towns which had not at that time adjusted themselves, Lawrence and Waltham were the only textile cities. Lynn and Worcester were the only other places where the problem was of any size. By March these places had adjusted their difficulties pretty completely.

The law required the reissuance of employment certificates, thereby affording an opportunity to count the children at work under the new law. An employment certificate is issued only when the child has actually secured his job. On December 24, 1913, 28,011 different children between 14 and 16 had been given employment certificates and were at work eight hours a day under the new law; 28,011 children between 14 and 16 are enough to have at work in Massachusetts. Before the law went into effect statistics show that there were between 28,000 and 31,000 at work in the occupations for which children are required to have certificates.

An investigation of the amount of hardship caused was made by the board of labor and industries by sending a blank to all known relief agencies in the State, public and private, on February 27, 1914. This investigation had revealed, on March 20, as the result of the eight-hour law, only 5 cases where permanent aid had been given and 11 cases of temporary aid. A study of cases of mothers applying for relief under the provisions of the mothers' aid law of 1913 showed that of 1,182 cases only 35 were cases where the child-labor law was apparently some part of the reason for the application. A further analysis of the 35 cases showed that by April 1, in 27 of the cases, this cause had been removed by the fact that the child had found work.

The law has now been tried in Massachusetts and has been found practical. The children have not been displaced; they are at work 8 hours instead of 10 hours. The investigations made by our committee show that under the law the children are happier, brighter, and more healthy. They are getting more time for play, more time to read, and more time to rest. Those who are now at work are, for the most part, properly cared for in school. There is no perceptible increase in idleness or crime. The cases of hardship caused by the law were few in number and of a temporary nature.

The law has worked as well as any of us could possibly have hoped. It has accomplished just what it was intended to accomplish, the lightening of the burden of over 20,000 children in the mills from 10 hours a day to 8 hours a day.

Mr. Chairman, the spinning room makes the yarn for the weaving room. Now, a good many mills in North Carolina are small mills, when there was insufficient capital, I suppose, to build, and some larger ones were organized on this basis; and that has been the reason I think for the cause of night work in North Carolina, there were only half enough spinning frames to provide for the weaving room, so the spinning room was run night and day, the very room the children were employed in—in order to make enough yarn for the weaving room. Now, it may cost the employers something to put in some extra spindles for the spinning room and it would take more children between 14 and 16 years of age to run an eight-hour day than an eleven-hour day to do the same work. But that can be absolutely adjusted. I am not sufficiently familiar with the situation to know just how much it would cost, but it can be done, just as a good many of these mills in North Carolina have put in enough spindles to take care of the weaving room and have stopped night work.

Mr. Swift read you some of the testimony concerning tuberculosis in the cotton mills and the mills that had been represented as having good ventilation, etc. One of the witnesses from Alabama referred to Dr. U. H. Oates, and quoted with approval from something he said. I would like to quote something from the same man. He is the chief factory inspector for Alabama and has been for some years—a very able man and a very superior man. He says:

> Picture a little child, a girl just 12 years of age—and the data in this office show that in numerous cases they are started to work the day they reach the age of 12. Imagine this little girl, in the winter months, arising at 5 o'clock in the morning, eating a poorly cooked meal (and in most instances their food is hastily and improperly prepared) wending her way in the darkness to a mill, working not for one hour or two hours, but for six hours steadily at one continuous task (a task which does not in any way elevate), a monotonous, invariable, nearly incessant, grind before two or three machines, amid the rattle of spindles and the roar of pulleys; surrounded by the incessant deafening noise and constant motion of machinery; deprived of the pleasure of conversation on account of the noise and oftentimes breathing an atmosphere vitiated by lack of ventilation and by artificial humidity and the presence of dust and cotton fiber. Fancy this child, with only half an hour for dinner, continuing at her labor until the 11 hours of required toil are completed. Tired and worn out she goes home in the darkness to such a home as she has, rarely seeing the sunshine. This picture causes me to wonder, as a phyician, what kind of a mother can this child make; what kind of offspring can she bring forth? Has this child no rights? Is it humane to make a machine out of this illiterate, helpless, maltreated human? Is it not entitled to the same consideration the farmer gives his colt or his calf? The idea of working a colt or a calf in harness would seem preposterous to the average farmer. Can we not put our children of the laboring classes in the same category as the farmer puts his beasts of burden?
>
> This is a plea for the children between the ages of 12 and 14; that vital period in a girl's life when she changes from girlhood to womanhood.
>
> Sixty hours' application a week at any vocation is certainly not conducive to good health, particularly during this period of life, and I want to go unqualifiedly on record as being heartily in favor of changing the age limit in Alabama to 14 in the case of boys and 16 in the case of girls.
>
> Ventilation, or rather lack of ventilation, is to me one of the most noticeable conditions in cotton mills. The architects have almost invariably ignored the rudimentary principles of ventilation. No means of ingress or egress of air is provided, other than the windows, and in a vast majority of cases these windows are closed and at times nailed down.

In cotton-mill villages the operators frequently furnish nice houses, adequate drinking water—and stop at that, thinking that they have furnished modern homes for these people. They have, however, ignored the most vital of all sanitary problems, namely, the disposal of sewage.

Mr. KITCHIN. Who is Dr. Oates?

Mr. MCKELWAY. Dr. Oates is the factory inspector of Alabama.

Mr. KITCHEN. He has generally been referred to in the testimony of Mr. Roberts, has he not?

Mr. MCKELWAY. Yes, sir; he is the same gentleman.

Mr. KITCHIN. What was the date of the article that you have just read?

Mr. MCKELWAY. May, 1913. I really do not know, Mr. Chairman, whether it is worth while to reply to the hookworm argument, that it was necessary to move these children from "soil-polluted farms" to the cotton mills in order to cure them of the hookworm, when it is well known that 65 cents' worth of medicine would do it. I have discussed this matter very thoroughly with Dr. Stiles, and with members of the Rockefeller Sanitary Commission, who agree with me on the subject. When I recently met Dr. Stiles at one of the clubs in Washington, he told me he had thought there ought not to be any restrictive legislation with respect to children in the cotton mills for a few years because he thought it was good to get them all together and cure them before letting them go back; that he had deliberately made opposition to such legislation for a period covering some five or six years, but that period had expired, and he had no objection to our going ahead. I think that Dr. Stiles will bear me out in saying this.

Mr. Chairman, you referred to the fact that I was not a lawyer. I have written a good many laws. Would you listen for a moment to a layman's constitutional argument on this question?

The ACTING CHAIRMAN. You may proceed.

Mr. MCKELWAY. I will just read from what I put into the record before the House committee. I was referring to Gov. Kitchin's statement, which he repeated before you, that the cloth made by the labor of children was just as good, just as pure, and just as sound as that made by adults. I read as follows:

I have been fighting against this child-labor evil for almost more years than I like to confess. I was once pastor of a church in a community in which there were cotton mills. I have taught in a mill school myself. I have been into scores of cotton mills. And when I began this work there were no limitations upon the ages of the children and no limitations as to hours, at least in North Carolina. When I began to be professionally connected with it, as I may say, as secretary of the National Child Labor Committee, I was very sanguine of immediate success. Eleven years ago, when I made my first appearance before the North Carolina Legislature as a representative of the National Child Labor Committee, I used to look into the faces of 12-year-old children working in the mills and think to myself, "Little folks, this legislature is going to turn you out of the mills before another year." And yet, though I did not know it, there were hundreds, nay thousands, of children then unborn who have since been put to work in the cotton mills of these cotton-manufacturing States.

Now, for my layman's constitutional argument: Can you not forgive me, with the experience I have had, if I do not regard that piece of cloth manufactured by those little hands as pure and good and sound, but as impure, as bad, as unsound, in itself—as in a sense stained with the blood of little children? My Government, the Federal Government, protects me from buying impure food; it protects me from buying misbranded goods, though they may be just as good as other goods; it protects me from buying oleomargarine when it is called butter, though I may prefer cotton butter to cow butter. But they say you can tell

about these things—you can tell the difference between pure food and impure food. It is because no microscope will tell whether a piece of cotton cloth has been manufactured by adult labor or by child labor that I have all the more right to demand that the Federal Government protect me from partnership with the exploiters of childhood through purchasing child-made goods. If over 95 per cent of the people of the Nation have said, through State legislation, that they do not want goods manufactured by the labor of children under 14 years of age, have they not just as much a right to be protected against buying goods manufactured by children as against buying misbranded goods? Why should the manufacturers of North Carolina—alone now of all the manufacturing States—be allowed to so mingle their child-made goods, manufactured by the labor of children under 14 years of age, in the general commerce of the United States that you can not tell one piece from any other and say, "We compel you to buy our goods." Why has Congress the right to say that in this District of Columbia, controlled by Congress, no child under 14 years of age shall work in a factory, nor any child under 16 years of age at night, nor any child under 16 for more than eight hours in any one day, and yet confess that it is powerless to protect the people of the District from purchasing child-made goods manufactured in the Carolinas? Gov. Kitchin also said that the whole purpose of this bill was to protect the producers at the other end of the interstate-commerce line. I deny it. As I have said, one purpose of this bill is to protect the consumer from the purchase of goods made under conditions which are repugnant to his moral sense. And I say that there is no one whose social conscience is developed beyond the embryonic stage that does not recognize the force of that argument as soon as it is presented to him.

And now out of a hundred million people at least ninety-seven million have said through their State laws that the believe the labor of children under 14 years of age in factories to be a bad thing. It was always immoral; they have made it criminal, so far as the manufacturing of goods is concerned. Have they no right as consumers of goods to be protected by the only authority that can protect them, namely, the Government of the United States, through the interstate-commerce clause of the Constitution, against becoming, through the innocent purchase of child-made goods, partners with the exploiters of children?

Looking at this question from the point of the development of the social conscience, let me make this suggestion, namely, that at the beginning of this Government the Supreme Court, even with John Marshall as Chief Justice, would not have agreed that the transportation of lottery tickets by express companies could be controlled by Congress. That was a time when there was no such universal condemnation of the lottery as obtained afterwards. But when the lottery evil had become generally recognized throughout the Nation, and the Louisiana lottery alone reared its foul head in New Orleans in violation of the social conscience of the people, defying through its overwhelming influence the good people of Louisiana in their efforts to abolish it, the Supreme Court of the United States virtually said that it could be abolished by Congress through stopping the channels of interstate commerce to its operations.

So with the white-slave traffic. It was only when the social conscience of this country became awakened to the evils of white slavery and of prostitution generally—what Miss Jane Addams calls "a new conscience concerning an ancient evil"—a conscience that has swept the houses of prostitution from nearly all the cities of the Nation—it was only after the awakening of the social conscience concerning this evil that Congress passed, and the Supreme Court sustained, the law making it a crime for a man to pay a 2-cent fare on a ferryboat for a woman who was carried from Jersey City to New York for immoral purposes, the payment of this fare for this transportation bringing the transaction within the power of Congress under the interstate-commerce clause of the Constitution.

So I believe that with the conscience of this whole Nation active against the oppression and exploitation of children in every possible form, the present Supreme Court will sustain an act of Congress, representing as it does the will of so vast a number of people who have expressed that will through State legislation, making the products of child labor outlaws of commerce. Talk about the public health: Is there not moral health as well as physical health, and do we not all suffer in our moral health when we contribute, however innocent we may be through ignorance of the origin of the goods we buy, to the prosperity of the employers of little children, who not only persist in employing them against the common dictates of humanity, but who by defeating State legislation

have successfully resisted the protection of these children by their own States, and who then come to Congress and assert that the people of this Nation have nothing to do with the question?

Mr. Chairman, here are two factories making hosiery. You know that one of them is what you might call a good factory, where children are not illegally employed or not employed for too long hours. The conditions are good. Here is another factory where we find the conditions reversed. You would naturally prefer to buy from a good factory rather than from the other factory, and so would any other humane man.

I claim that this bill would enable us to find out under what conditions goods are produced, and would protect the consumer from partnership with the exploiters of child labor, because child labor means cheap labor. It is not that the children get such low wages—in the cotton-mill industry I think they get comparatively high wages for children—but because the employment of children tends to bring down the wage scale for adults to the lowest level, and therefore the consumer can get the goods a little cheaper when made by children. Some of us do not want that advantage. Some of us want to be protected against that sacrifice of childhood for our profits.

The poverty argument has been presented here, and it was suggested somewhere that perhaps this bill ought to make some provision for the children of widows—make some exemptions for them. I found that among the States in which there is some poverty exemption California has a 15-year age limit, but allows children of 14 who are dependent to be employed in industry. Georgia still has this poverty exemption. Virginia has it, but the legislature is now considering wiping it out. The committee reported the bill favorably last week. South Dakota has the poverty exemption, and Washington has the poverty exemption. That exemption was forced into the bill for the District of Columbia when it was passed. A great many States have tried that and they have all given it up except those few whose names I have read, because they found that it opened wide the door for violations of the law. We hold that it is wrong in principle. If child-labor legislation is for the protection of the child, naturally the child, who is already handicapped by poverty, needs that protection even more than any other child, and it is the duty of society to protect the child. It is not a problem of child labor; it is a problem of relief.

I was very much interested in what Senator Newlands, the chairman of the committee, said the other day in discussing this very question about some provision being made for these children. I believe I may claim the honor of having written the first mothers' pension law in this decade as a provision of the compulsory education law of Oklahoma. But 20 States or more have since adopted that regulation following the passage of child-labor laws. It is because society will not, so long as they are allowed to earn wages, recognize its duty to those dependent children that child-labor laws precede mothers' pension laws. This bill will equalize these standards throughout the country and provide for the effective enforcement of law, and then we shall have mothers' pension laws throughout the country by State action. They will follow as the night the day, and I think that is the best solution of the problem.

It might interest you to know, however, that in the cotton mills there is no such hardship as you might suppose. Widows' families in cotton mills are generally large families. I have here in this same volume, on page 766, some very interesting figures about the wages of families, etc., with widowed mothers in them.

In North Carolina, in those mills that were investigated, there were 37 families with 48 children—the children of widows—that were found at work in that State. The earnings, excluding the labor of children under 14 years of age, were $534 a year. We all know that wages have advanced a great deal since 1908. The families of deserted mothers, $433 a year.

Now, when we come to incapacitated fathers, it was somewhat larger, $776; families of idle fathers, $685; families where both parents worked, $777; families with fathers but without mothers at work, $915. That excludes the wages of children under 14 years of age, and, as we have already said, the 14-year age limit does not seem to concern anybody very much.

I have a photograph of a widow in a Georgia cotton mill who had nine children living with her. She was a widow. Her husband died of tuberculosis. All but the three youngest children were at work in the mill with the mother. The six children in the mill made $6 a week and the mother made $3 a week. That was about 1909, I should presume. The two oldest children, however, had married. They were just a little older than those in the mill. They had left the burden of support on those who were with the mother.

Now, after that picture was published the owner of that mill got interested. He saw that seven younger children under the legal age were sent to an orphanage. So I think that is a pretty good example of the fact that society recognized the obligation as soon as it was pointed out.

That may not have been the best solution of the problem. But every one of those children was illiterate. If we allow that situation to go on, what do we do? We are simply multiplying poverty and ignorance for another generation to take care of. We are simply condemning these children to unskilled employment, and they go on and marry, and they have children, and we have a greater problem in the next generation than we have now.

Mr. KITCHIN. Is it your information that those six children made altogether only $3 a week?

Mr. MCKELWAY. The six children made $3 a week.

Mr. KITCHIN. That is 50 cents a week?

Mr. MCKELWAY. Yes, sir; an average of 50 cents a week.

Mr. KITCHIN. Do you mean that they worked every day? I can not comprehend that statement.

Mr. MCKELWAY. Maybe I am wrong about that. I will look up the reference for that. It does seem a little improbable, but the children are very small.

Mr. KITCHIN. What mill was it?

Mr. MCKELWAY. At Tipton, Ga. I will get you the exact data, because I have the record.

(Subsequently Mr. McKelway said.)

Mr. MCKELWAY. I find on refreshing my memory from the inscription published with this photograph that the mother earned $6 a

week instead of $3, and the group of children earned the same amount; as I said, $6 a week for the group. One of the children worked regularly and one as a "helper" in the mill. In a pamphlet entitled "Child Labor in Georgia" (pamphlet 138), I commented upon this photograph as follows:

One of the photographs published gives the case of "the poor widow," for whose supposed benefit the exception in the child-labor law is made. It should be remarked, first, that before the spread of the cotton-mill industry, there would have been no community in the South where this poor widow would not have been taken care of, and her children given some opportunity for an education. Another significant fact here is that the two elder children have married and left their mother to be at least partly supported by the younger children. If one of these older children had remained at home as a worker she would have been able to make as much as the five children who work in the mill.* It is readily seen that with these children working at these ages, and with no opportunity for their education, we are simply perpetuating and multiplying the poverty and ignorance of the present generation. If the law did not permit the burden of support to be laid upon these young children of the family, some way would be found by humane and kind-hearted people to give them a better chance in life.

There are, of course, many things that might be said in contradiction of statements made by the other side on this question. I have taken some notes, but it seems to me that most of what was said was irrelevant and immaterial. Certainly a great part of it was, and I do not know that it is worth while for me to meet such statements. So unless there are some questions to be asked, I am now through.

(Mr. McKelway was thereupon excused.)

Mr. KITCHIN. I wish to file some information that we received in response to telegrams about how the Massachusetts law is working. One of the pieces of information is from the Arkwright Club, which is very different from Dr. McKelway's information in the article which was published about two years ago.

The ACTING CHAIRMAN. You say this comes from the Arkwright Club?

Mr. KITCHIN. There is one telegram from the president of the Massachusetts Manufacturers' Association, and also from two other big mills.

The ACTING CHAIRMAN. The manuscript shows the source, does it?

Mr. KITCHIN. Yes, sir. I also wish to file a general compilation as to the effect of labor on children, being a paper that was prepared by the secretary of the Southern Cotton Manufacturers' Association, Capt. David Clark.

The ACTING CHAIRMAN. That will be inserted.

(The papers referred to are as follows:)

IMPRACTICABLE TO WORK PART OF EMPLOYEES EIGHT HOURS.

Cotton manufacturers have repeatedly stated before this committee that it will not be practicable to employ children between 14 and 16 years of age for eight hours while the older persons work 10 hours, and evidence has been given that a similar law in Kentucky resulted in those under 16 years of age being forced out of the mills.

The advocates of this bill have contended before this committee and also the Labor Committee of the House that the cotton manufacturers of Massachusetts had been able to adjust themselves to a similar law without sending from the mills those under 16, and that the cotton manufacturers of the South could do the same.

In order to get the facts we wired several prominent men in Boston and have received the following replies:

"BOSTON, MASS., *February 16, 1916.*

"ELLISON A. SMYTH,
"*Congress Hall Hotel, Washington, D. C.:*

"Massachusetts law prohibits children under 16 working more than eight hours per day and at its passage two years ago such children were discharged, and in general are not employed now except in few instances as sweepers or doing odd jobs. Effect of law is claimed to be bad in influence on child who between 14 and 16 neither works nor attends school.

"ALBERT GREENE DUNCAN."

(Mr. Duncan is president of the National Cotton Manufacturers Association.)

"BOSTON, MASS., *February 16, 1916.*

"W C. RUFFIN,
"*Congress Hall Hotel, Washington, D. C.:*

"Massachusetts law provides children under 16 may work eight hours six days a week, but not before 6.30 in the morning or later than 6 in the evening. When law went into effect it caused the discharge of a great many children, and those forced out of employment did not go back to school. The possible benefit to be derived from the law will be that of keeping children in school until they reach an age whereby they can seek employment.

"T. O. NICHOLSON."

(Mr. Nicholson is connected with C. E. Riley & Co., of Boston.)

"BOSTON, MASS., *February 16, 1916.*

"ELLISON A. SMYTH,
"*Congress Hall Hotel, Washington, D. C.:*

"Massachusetts law provides children under 16 years can not work over eight hours in cotton mills. Number of such operatives has been reduced to a minimum. Those remaining leave mill about 4 o'clock, only working eight hours. Such help usually work on odd jobs like sweeping, cleaning floors, etc., but not operating machines. Opinion divided as to effect of law. Some mills take time out in middle of day, not allowing them on premises, which forces children on street, causing discomfort in bad weather for those not living near mills. Some say more idle children on streets. Don't go to school. Can not stay in mills.

"F. J. HALE."

(Mr. Hale is president of Saco-Lowell shops.)

These telegrams prove the contention that this bill does practically, in effect, raise the age limit to 16 instead of 14, as has been contended.

There are a few jobs around a cotton mill, such as sweeping, that could be filled by a person working 8 hours, but it is impracticable to operate the machinery of the spinning room with persons who work 8 hours while those on the other machinery work 10 hours.

MEMORANDUM RECEIVED FROM ARKWRIGHT CLUB.

Massachusetts laws provide that women and children under 18 shall not work more than 54 hours a week or more than 10 hours in any one day, and that minors under 16 shall not work more than 48 hours a week nor more than 8 hours any one day, nor before 6.30 nor after 6.

Adjustments to new conditions for a year caused much confusion. In some cases minors under 16 were discharged; in other cases they were kept for detached jobs, but not for regular work on machines.

Employers differ about result. Many cases of hardship occurred—where strong boys lost their jobs and their mothers went back to work. In some cities boys loafed about the streets. The final result is that comparatively few under 16 are now at work and none under 14.

IS WORK IN COTTON MILLS INJURIOUS?

Many of those who favor the Keating-Owen bill are sincere in their belief that young people are being injured by work in southern cotton mills.

They have been educated to that belief by statements which they have heard and articles which they have read and very few have an actual or real knowledge of the conditions which they seek to remedy.

The cotton manufacturers of the South are sincere in their belief that children are not being injured, either mentally or physically, by the work they perform in the cotton mills and they welcome the fullest investigation by this committee or its representatives.

The mill owners and presidents are of the same blood as their employees and keep in very close touch with them. They know most of their employees personally and know how they live and how they work.

Labor Laws of Southern States.

We often hear it said that the Southern States have no laws regulating the ages at which children may be employed or hours that they may be permitted to work.

There is no State in the South that to-day permits the employment of children under 12 years of age under any conditions.

There is no State in the South that permits the employment of children under 13 years of age, with the following exceptions: In North Carolina they can work in an apprentice capacity between 12 and 13 years of age, provided that they have been to school 4 months during the previous 12 months.

In South Carolina children upon whom the parents are entirely dependent can work between 12 and 14 years of age, provided the State secretary of labor is sufficiently convinced of the necessity to issue a certificate. South Carolina Legislature now in session has under consideration and will probably pass a law eliminating that provision after July 1, 1916. Until September 1, 1916, a child between 13 and 14 may be employed in Alabama, provided it has attended school eight weeks in the previous year. In none of the other Southern States can a child of less than 14 years of age be employed.

HOURS PER WEEK.

We often hear it said that southern cotton mills are operating 11 and 12 hours per day.

The laws of every Southern State limit the working hours to 60 per week, or an average of 10 hours per day. By the unanimous request of the operatives the 60 hours per week are so divided as to make Saturday a short day, and leave Saturday afternoon for baseball games, etc. A greater production from the mills could doubtless be obtained by running 10 hours each day, but the mill owners arrange the hours so as to suit the wishes of their employees.

One of the greatest hardships of the Keating-Owen bill is that it will take away from the operative the right to so divide the hours per week that they can have vacation on Saturay afternoon. Men and women who probably never worked a Saturday afternoon in their lives arbitrarily assume the right to specify how the employees of cotton mills shall divide the hours per week and seek to deny them the much-valued Saturday afternoon vacation which means a great deal to them.

Those who favor the Keating-Owen bill bring two indictments against the cotton mills:

1. That children are being injured by the work which they are performing.
2. That the children of the children who are now working will be deficient physically and mentally.

Their claims relative to injury to children may be classified as follows:

1. That their general health is injured by the hard character of their work.
2. That the nature of work causes tuberculosis.
3. That the work is dangerous and many children are either killed or maimed.
4. That the work affects the child mentally.
5. That because of work the child is denied an education.

GENERAL HEALTH OF THE OPERATIVES.

There are no reputable statistics showing that the work in cotton mills injures the health of the mill operatives or that cotton-mill children between 14 and 16 are less healthy than other children. We have the testimony of Dr. C. W. Stiles, the famous hookworm expert, that conditions of health are far better in the cotton mills than upon the tenant farm.

A very thorough investigation of the health of mill boys is now being conducted by the United States Department of Health and the Massachusetts

State Board of Health, and no advance information yet given out indicates that the mill boys will not compare favorably with those in other walks of life.

The death rate in cotton-mill villages has not been higher than in other communities, and in any mill village the men and women who have grown up in mill work are healthier and better physical specimens than those who have moved in from the farm or from other vocations.

Regular habits, good food and living conditions, together with the supervision of health conditions by mill authorities, are all on the side of the mill operative.

Many mills spend considerable upon their health departments, because healthy operatives mean efficient operatives.

The following are the results accomplished by the health department at one cotton-mill community:

	Year without health department.	Year with health department.
Cases of—		
Typhoid fever	54	4
Whooping cough	99	1
Scarlet fever	21	6
Diphtheria	9	6
Measles	16	0
Cholera infantum	54	36
Skin diseases (miscellaneous)	46	9
Grippe	17	9
Typhoid immunity treatment	18	1,053
Visits by nurses	4,871	5,449

It is easy to say that millwork ruins the health of young people, but it has yet to be proved.

While the mills run an average of 10 hours per day it is estimated that boys under 16, who are employed almost exclusively as doffer boys, work from five and one-half to six hours. When bobbins become full the boys remove them, which is called doffing, and between doffs they are at liberty, so that they really work not exceeding six hours per day.

The girls under 16 are employed almost exclusively in the spinning room and while they are required to be in the room all the time, they are not constantly at work. Each girl has a certain number of sides (meaning one side of a spinning frame) to look after and replace the ends when they break. When the ends are up the girl sits at the end of the spinning frame and makes an occasional trip down the alley to see that everything is all right.

There is no mental or physical strain in connection with the work, and the largest weight that the girl has to lift at any one time is 1¼ pounds, and in the course of a day she will lift only a few of them.

The work of a girl in a cotton mill can in no way be compared to the strain upon one bending over a sewing machine in a sweat shop.

Dr. T. W. D. Long, of Roanoke Rapids, N. C., testified before the House committee that during five years' work in a mill population of 5,000 he had been able to see no injurious effects of the work performed by girls and had never known a case of insanity or nervous prostration among the girls or young women. Dr. Long also testified that the ability of mill women to bring into the world strong, healthy children did not appear to be affected by the work they had performed in cotton mills when 14 years of age or less.

MILLWORK DOES NOT CAUSE TUBERCULOSIS.

It is not unusual to hear the statement that work in cotton mills causes tuberculosis, yet such a statement is absolutely unsupported by facts.

There was a sensational amount of tuberculosis at the Wadesboro Silk Mill, Wadesboro, N. C., and it was all charged to the millwork. Dr. L. B. McBrayer, the well-known expert of Sanatorium, N. C., was called into the case and made an elaborate investigation, in which he traced the history of every case, and found that not a single case has been caused by millwork or had even been caused by contact in the mill.

Dr. McBrayer, in his testimony before the Labor Committee, said:

"It is impossible for any trade or any occupation to produce tuberculosis without infection. The stonecutter's trade is a very dusty trade, and fine particles of stone are carried into the lung, into the air cells, and on cutting the lung with a knife you can feel the particles of stone. Yet that does not produce tuberculosis, but it is apparently a frequent cause of pneumonia, traumatic pneumonia. The same is true to a limited degree perhaps of coal dust, but tuberculosis can not be caused except by exposure to some other case."

This testimony from an expert who has never had any connection with the cotton-mill industry ought to set at rest the popular illusion that work in cotton mills causes tuberculosis.

Some experts have gone so far as to claim that the absorptive properties of cotton lint tend to prevent tuberculosis and the remarkable decrease of tuberculosis in the large cotton mill towns of Massachusetts as compared with non-cotton manufacturing towns of that section tend to substantiate the claim.

With the exception of the opening room, where men are exclusively employed, there is very little lint or dust in a cotton mill, and if your committee goes South you will be surprised at the pure atmosphere you will find in the spinning rooms.

The mortuary figures of the Metropolitan Insurance Co. show the per cent of deaths among the textile operatives from tuberculosis to be one of the lowest upon the list, and less than half as great as that among clerks and bookkeepers.

WORK NOT DANGEROUS.

In the House debate one Congressman spoke of the blood of the children spattered upon the window panes, and voiced the impression that has been insiduously creating the effect that cotton mills injure and maim many children.

Cotton-mill machinery, especially in the departments where young people work, is very harmless, and accidents are exceedingly rare. Dr. T. W. M. Long, who has charge of a free hospital in a village of 5,000 cotton-mill people, stated before the Labor Committee that he had known of no serious accident in the mills in five years, and during the past 12 months the total accidents in the mills were one or two cases of lacerated fingers, none of which required amputation.

Companies that write employment liability insurance naturally base their rates upon the liability of accidents as found from the records of the past.

The following are the rates charged in North Carolina for a policy covering $5,000 for injury to one person or $10,000 to several injured at the same time. The rate includes first medical aid and is the price charged per $100 of pay roll.

Street car conductors	$4.08
Planing mill	2.47½
Foundry and machine shops	1.36
Laundry work	1.22
Furniture factories	1.09
Farm laborers	.68
Cotton mills	.49½

The evidence, therefore, of the people that pay money for accidents is that there are fewer accidents and less risk in cotton mills than in any other line of work. They show the remarkable fact that there is more risk in working on a farm than there is in a cotton mill.

MENTAL EFFECT OF WORK.

The claim that cotton-mill work has a disastrous effect upon the minds of children seems to be based upon nothing but supposition.

The superintendents who are holding the highest positions and drawing the largest salaries in southern cotton mills are the boys who began work at early ages.

Lincoln, Grant, and most of our really great men worked when they were boys; and in his remarks in the House Congressman Joe Cannon said, "You will find, if your experience is like mine, that three-fourths of the men who are doing things to-day were boys upon the farm or in the mine or in the factory. Their successors, 50 years from now, will be the boys who learn to hustle while they are young."

If the Commonwealth of Massachusetts desires to make a useful citizen out of a bad boy, she sends him to a reformatory and puts him to work. If work injures, why not let the boys in such institutions simply study and play? They are children, even if they are in a reformatory, and yet the State says they must work but at the same time says that it will ruin the health of a good boy whose mother needs his labor.

The boy while working in a cotton mill is also being educated in his life work, and the later he begins the longer it will require him to reach the top of the ladder.

If cotton-mill work injures children, it does seem that there would be some evidence in insanity; and yet we have the following statistics:

Admitted to State Sanatorium at Milledgeville, Ga.:

From cotton mills:		From farms:	
1910	20	1910	450
1911	22	1911	488
1912	25	1912	491
1913	14	1913	562
1914	36	1914	595
Total	117	Total	2,586

Practically the same ratio will be found at the other insane asylums in the South and does not show much impairment of mental faculties of the mill population.

EDUCATIONAL FACILITIES.

The charge is made that children employed in the mills are denied a chance for education, and to some extent that is true and should be remedied as far as possible.

Whenever it is possible for a child to attend school it should be given the opportunity, but unfortunately there are many who are not able to send their children to school when they were not allowed to work, and to say that a State should have compulsory education and should provide the necessary school does not help the case if that State has not compulsory education and is not providing the necessary schools.

Winthrop Talbert has an article "Illiteracy and Democracy" in the December (1915) issue of the North American Review, and from that we quote the following extract:

"It has long been a choice morsel for the social pessimist and critic of democracy that nearly one-fourth of the population of the Southern States is illiterate. We have been accustomed to think of Alabama, Mississippi, and neighboring States as the "black belt," not only with regard to race, but also schooling. It gives a different aspect to the situation to know that each Southern State has cut its percentage of illiteracy more than 25 per cent during the last census period from 1900 to 1910, and that in the South Atlantic, East South Central, and West South Central divisions, which include all the Southern States, the number of illiterates was nearly a million (938,767) less in 1910 than in 1900.

"Illiteracy may be a hindrance, but it is not a peril, in States which are so active through public-school endeavor and otherwise that each decade they are steadily effecting wholesale reductions not only in the percentage, but in the number of illiterates. Thus illiteracy is a menace only in the manufacturing States of New England and in the States of the Middle Atlantic division, which for 10 years—nay, even for 20 years, as in the State of New York—have failed to reduce their percentage of illiteracy, and have also increased enormously their numbers of illiterates, or, as in the case of Connecticut, have actually retrograded and have increased not only in numbers of illiterates, but in percentage of illiteracy as well. The New England, Middle Atlantic, Mountain, and Pacific divisions are those which show an increase in the number of illiterates during the last 20 years.

"Illiterates are steadily increasing in number, not in the South, but in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Illinois, North Dakota, Nebraska, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, California, the heaviest increase being in New England and the Middle Atlantic States. During the 20 years from 1890 to 1910 the number of illiterates in Virginia, North Carolina, South

Carolina, Georgia, Kentucky, and Florida decreased from 2,027,951 to 1,427,063. In Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania the increase was from 790,772 to 1,103,872."

The statistics show that the States with advanced child-labor laws are increasing in illiteracy, while the Southern States, where such a great evil is alleged to exist, are actually making rapid strides in eliminating illiteracy.

The cotton mills of the South almost without exception have splendid schools for their employees and encourage them to attend. The cotton manufacturers of our section do not wish their mill operatives to remain ignorant, because they believe that education increases their efficiency. The mills have been the greatest factors in decreasing illiteracy in the South.

CHILDREN OF MILL CHILDREN.

A favorite argument of supporters of the Keating-Owen bill is that by allowing boys and girls to work we are injuring the next generation.

It is a plausible argument, but is absolutely unsupported by proof. In any mill village the strongest and healthiest children are those of men and women who were formerly employed in the mills at early ages. They will average far above the children of those who recently moved to the mills from the farms.

It is absurd to claim that the light work performed by a spinner should cause her future child to be defective, and proponents of such a theory have never been able to give proof.

OBEYING THE LAW.

At the last meeting of the North Carolina Cotton Manufacturers' Association, June, 1915, the following resolutions were adopted:

"*Resolved*, First. That this association pledge itself to encourage a faithful compliance with the child-labor laws of the State.

"Second. That we respectfully request every superior court judge in this State to instruct the grand jury in each of his courts to investigate and return all violations of said laws coming within his knowledge.

"Third. That we ask every county superintendent of education to report, and every solicitor in this State to prosecute, all violations of said laws known or reported to him.

"Fourth. That this association continues to sincerely recommend both scholastic education and practical training, and condemns idleness as the greatest curse of civilization. It regards with great pride the compulsory school attendance law, which this association unanimously recommended and supported; and this association again earnestly advises that the age limit of said school law be raised to 13 years, and that it be rigidly enforced by the local authorities.

"Fifth. That a copy of these resolutions be sent to every manufacturer and to every judge, solicitor, and county superintendent of education in this State."

The words "child labor" are abhorrent to every mind, and it is easy for the public to accept the unsubstantiated and unproved statement that the cotton mills of the South are grinding the lives out of little children.

The cotton manufacturers are sincere and honest in their contentions that they are not injuring children, and are willing to have unbiased persons investigate at any time.

If the Keating-Owen bill is enacted upon the basis of rumors and misrepresentations without the true facts being known, it will inflict an injustice upon an industry that has a clean record and clean hands.

Mr. SWIFT. Mr. Patterson has a few words to say in the nature of rebuttal on things that were brought out, and if you will hear him I think it will take but a few minutes.

STATEMENT OF MR. SAMUEL E. PATTERSON—Resumed.

Mr. PATTERSON. Gentlemen, I am going to detain you but a few minutes. You heard what Mr. Swift had to say in regard to the comparison between mill villages and the rural districts as to education.

I have a number of telegrams here from the superintendents of public instruction at the different places in answer to an inquiry I sent them after the hearing closed last night, showing what the mill villages were doing and what their average attendance has been.

The ACTING CHAIRMAN. Let me suggest that you include in the record a copy of your telegram to them, with their replies.

Mr. PATTERSON. The wording of the J. L. Patterson telegram is the same as that sent to all others who replied.

The ACTING CHAIRMAN. Well, then, insert the Patterson telegram only.

(The Patterson telegram referred to and the replies thereto are as follows:)

WASHINGTON, D. C., *February 17, 1916.*

J. L. PATTERSON,
Roanoke Rapids, N. C.:

Swift testified that average daily school attendance in Roanoke Rapids less than in remainder of Halifax County. Ascertain and wire immediately to Shoreham Hotel. Have mayor, board of commissioners, presidents of the banks, merchants, etc., wire protest against passage of Keating bill to Senator E. D. Smith, of the Interstate Commerce Committee of the Senate. Hurry.

S. F. PATTERSON.

REPLIES.

GREENWOOD, S. C., *February 18, 1916.*

S. F. PATTERSON, *Chairman,*
Care Shoreham Hotel, Washington, D. C.:

The average daily attendance all mill school, Greenwood (S. C.) territory, 90 per cent of enrollment.

A. P. MCKISSICK.

HENDERSON, N. C., *February 18, 1916.*

SAMUEL F. PATTERSON,
Shoreham Hotel, Washington, D. C.:

School buildings and equipment at Henderson and Harriet cotton mills far better than rural buildings, and equipment school terms nine months against rural terms four and one-half to five months. Five grades taught at mill schools. Pupils then promoted to our central grammar and high schools. All one system and under same superintendent. Compulsory attendance in force from 8 to 13 years, one year more than the State requires. Conditions in these mill schools will compare favorably with any other public schools in the country. Average daily attendance, 90 per cent.

J. T. ALDERMAN,
Superintendent Henderson Graded Schools.

DURHAM, N. C., *February 18, 1916.*

S. F. PATTERSON,
Shoreham Hotel, Washington, D. C.:

Official figures for session 1914–15 for Durham County show total enrollment in mill communities of county schools of 1,353; average attendance, 73.9 per cent. Total enrollment other rural schools, 1,944; average attendance, 60.9 per cent. Trying to obtain figures of Harnett and Davie Counties.

W. A. ERWIN, *Treasurer.*

ROANOKE RAPIDS, N. C., *February 18, 1916.*

S. F. PATTERSON,
Shoreham Hotel, Washington, D. C.:

Figures for last available period covering white and colored schools, Roanoke Rapids school district: Census, 1,412; enrollment 822, equals 58.2 per cent of census. Average attendance 634, equals 77.1 per cent of enrollment and 45 per cent of census. Value of school property, $46,000.

A. M. PROCTOR,
Superintendent Roanoke Rapids Schools.

ROANOKE RAPIDS, N. C., *February 18, 1916.*

S. F. PATTERSON,
Shoreham Hotel, Washington, D. C.:

Figures for last available period covering white schools, Roanoke Rapids school district: Census, 1,277; enrollment 732, equals 57.3 per cent of census. Average attendance 590, equals 80.6 of enrollment and 46.2 of census. December attendance 92 per cent of enrollment. Value of district white-school property $45,000. Eight months school term.

A. M. PROCTOR,
Superintendent Roanoke Rapids Schools.

ROANOKE RAPIDS, N. C., *February 18, 1916.*

S. F. PATTERSON,
Shoreham Hotel, Washington, D. C.:

Figures for last available period covering white schools, Roanoke Rapids school district: Census, 1,257; enrollment 732, equals 57.3 per cent of census. Average attendance, 590, equals 80.6 of enrollment and 46.2 of census. December, 43 per cent enrollment. Rural districts, 3,422. Average attendance, 59.1 per cent.

W. A. ERWIN, *Treasurer.*

DURHAM, N. C., *February 18, 1916.*

S. F. PATTERSON, *Chairman,*
Hotel Shoreham, Washington, D. C.:

Only one mill community in each of Davie and Harnett Counties. Davie County official figures last year show enrollment, mill community, 453; average attendance, 62⅜ per cent enrollment. Rural districts, 2,155; average attendance, 64½ per cent. Latest accurate Harnett County figures obtainable are, session 1911–12, mill-community enrollment, 407; average attendance, 75 per cent. Over 1,500 scholars in Belton, Williamston, Gluck, Pelser, Piedmont (all in Anderson County) mill schools. Average attendance, 66 per cent. Three rural schools in Anderson County, over 400 enrolled. Average attendance, 57 per cent.

ELLISON A. SMYTH.

GREENSBORO, N. C., *February 17, 1916.*

S. F. PATTERSON,
Washington, D. C.:

Enrollment, Proximity and White Oak schools for January, 863. Average daily attendance, 743; per cent attendance, 86.

BERNARD M. CONE, *Treasurer.*

ROANOKE RAPIDS, N. C., *February 18, 1916.*

S. F. PATTERSON,
Shoreham Hotel, Washington, D. C.:

Figures for last available period covering all rural schools, both races, Halifax County: Census, 9,673; enrollment 6,624, equals 66.2 per cent of census. Average attendance 3,400, equals 35.1 per cent of census and 51.3 per cent of enrollment. School property, $39,300.

A. E. AKERS,
County Superintendent Public Instruction.

ROANOKE RAPIDS, N. C., *February 18, 1916.*

S. F. PATTERSON,
Shoreham Hotel, Washington, D. C.:

Figures for last available period covering all rural white schools, Halifax County: Census 2,307; enrollment 1,698, equals 73.7 per cent of census. Average attendance 1,146, equals 67.5 per cent of enrollment and 49.5 per cent of census. Value of rural white school property, $27,000. Six months school term.

A. E. AKERS,
County Superintendent Public Instruction.

ROANOKE RAPIDS, N. C., *February 18, 1916.*

Hon. E. D. SMITH,
Interstate Commerce Committee of Senate, Washington D. C.:

Having been superintendent Roanoke Rapids graded schools for seven years ending June 30, 1915, now superintendent Halifax County schools, I find conditions and advantages much better in Roanoke Rapids than in rural communities.

A. E. AKERS,
Superintendent Halifax County Schools.

Mr. PATTERSON. I should like to read this one. This is from Mr. A. M. Proctor, superintendent of Roanoke Rapids School:

Figures last available period, covering white and colored schools, Roanoke Rapids School district census, 1,412; enrollment, 822; equals 58.2 per cent of census. Average attendance, 634;, equals 77.1 per cent of enrollment and 45 per cent of census. Value school property, $46,000.

They have an eight months' school term.

Mr. SWIFT. I simply rise to call attention to the fact that the telegram reports the average daily attendance as based on the enrollment. The figures I gave were the average daily attendance as based on the school census. I simply want to call attention to that difference.

Mr. PATTERSON. I had a mass of these telegrams. My telegram to these different people was a request that they state the average daily attendance and the enrollment. I should like to file these with the committee.

Dr. McKelway read an article about the ventilation in the cotton mills. I am going to take but a very few minutes of your time on that subject. I wish to say, though, that the ventilation and the heating in the cotton mills at Roanoke Rapids are more scientifically controlled, both as to temperature and humidity, than the atmosphere in this room right now.

Senator CLAPP. Can you not give us a better comparison than that?

Mr. PATTERSON. I will say that it is automatically controlled, both as to humidity and moisture, and in the winter time hot air is blown through the rooms and in the summer time cold air.

Now, in regard to the statement Mr. McKelway made as to the disposal of the sewage, I will say that in our town of Roanoke Rapids, both as to the people at the mills and the people who live outside of the mills, they have sanitary closets, such as designed by the Government, and made positively sanitary and fly proof in every respect. He also said that the child labor was employed because it is cheap labor. I want to disabuse your minds of that. Child labor is not cheap labor in any sense of the word. A child 15 years old is paid so much per side per hour, or so much per side per day, as the case may be. It is not cheap labor. It is simply that the child is doing work that is suited for the child and not suited for adults. That sort of work is not suited for an adult any more than plowing is suited for a child. There is a difference.

In regard to what was said about the violation of the law in North Carolina, I want to say truthfully that I do not know of a single case of violation of law in North Carolina. Up to a few years ago I think probably there were some violations, and probably there are some now, but if there are I do not know them, and I know

there are none at my place, because the youngest child is 13 years and 11 months old, and the next youngest child was 14 years old the 16th of December. I know the children by name and I know exactly how old they are, so they are certainly not children working below the legal age limit.

I do not think there is very much more to say, except that I want to renew the invitation for the committee to come as our guests South and look at these mills. There is no use for me to take up your time. I do not think there is any special point to be answered.

I should like, though, to add that Dr. McKelway is mistaken about the manufacturers in North Carolina, and the gentleman who appeared before you here, Mr. Ruffian, was one who mentioned our name especially, stated we were opposing inspection. I wish to say that we went before Gov. Cregg at the last meeting of the legislature and said we would not oppose inspection if it were put under the charge of the superintendent of public instruction. We looked at in this way—that if a child is too young to labor, that is, to legally labor, it does not come under the Department of Labor at all; it comes under the superintendent of public instruction, especially so if there is a compulsory education law. So we said if it was put under that department we would not object to it.

I should also like to file—I think it has not been done—a copy of the resolutions that were passed at the last June meeting of the North Carolina Cotton Association.

Mr. KITCHIN. You might read that, Mr. Patterson.

Mr. PATTERSON (reading):

At the last meeting of the North Carolina Cotton Manufacturers' Association, June, 1915, the following resolutions were adopted:

"*Resolved*, First. That this association pledge itself to encourage a faithful compliance with the child-labor laws of the State.

"Second. That we respectfully request every superior court judge in this State to instruct the grand jury in each of his courts to investigate and return all violations of said laws coming within his knowledge.

"Third. That we ask every county superintendent of education to report, and every solicitor in this State to prosecute, all violations of said laws known or reported to him.

"Fourth. That this association continues to sincerely recommend both scholastic education and practical training, and condemns idleness as the greatest curse of civilization. It regards with great pride the compulsory school attendance law which this association unanimously recommended and supported; and this association again earnestly advises that the age limit of said school law be raised to 13 years, and that it be rigidly enforced by the local authorities.

"Fifth. That a copy of these resolutions be sent to every manufacturer, and to every judge, solicitor, and county superintendent of education in this State."

The ACTING CHAIRMAN. Is there anything further?

Mr. PATTERSON. No; I think not.

(Thereupon, at 5 o'clock p. m., the committee adjourned until Monday, February 21, 1916, at 10 o'clock a. m.)

INTERSTATE COMMERCE IN PRODUCTS OF CHILD LABOR.

MONDAY, FEBRUARY 21, 1916.

COMMITTEE ON INTERSTATE COMMERCE,
UNITED STATES SENATE,
Washington, D. C.

The committee met at 10 o'clock a. m. pursuant to adjournment.

Present: Senators Newlands (chairman), Smith of South Carolina, Pomerene, Robinson, Clapp, Cummins, Lippitt, Townsend, and Poindexter.

The committee resumed the consideration of the bill S. 1083, to prevent interstate commerce in the products of child labor, and for other purposes.

The CHAIRMAN. We will now hear Mr. Emery.

STATEMENT OF JAMES A. EMERY, ESQ., ATTORNEY, WASHINGTON, D. C.

Mr. EMERY. Mr. Chairman and gentlemen of the committee, I appear on behalf of the National Association of Manufacturers, an organization consisting of some 4,000 members operating manufacturing establishments in substantially 35 States of the Union.

I realize in approaching the discussion of a subject of this character one is peculiarly liable to misconception, misapprehension, and even misrepresentation of one's position with respect to it.

The membership of the National Association of Manufacturers, so far as we can ascertain, does not include, among the two and one-half million employees engaged in the establishments which its members operate, but comparatively few persons below 16. Our membership would be little affected by the provisions of this measure with respect to the age limit of children, but there is no member of the association, who, as a manufacturer, or as a citizen of the United States, does not believe he would be very seriously affected, especially in the future, by the principle of control here asserted and by the policy proposed, as well as by the form in which this measure is cast.

I assume, in discussing the measure, that it is not predicated upon the theory that the mere employment of a child is an evil in itself. Otherwise it would—and the laws of all States would—properly exclude from employment all children; whereas not only does it permit the employment of children of any age at some occupations, examining the proposal from that angle, but among the occupations

obviously excepted are those in which the far greater number of children, who work at all in the United States, are employed.

I assume that the evil of child labor lies in the employment of children of an improper age, or at improper occupations, or for too great a period of time, or while in improper physical condition, or where the operation of such employment excludes opportunity for education and such other circumstances as evidence the judgment of the various States in the numerous statutes regulating this subject.

In that connection I beg to call the attention of the committee to the fact that the regulation of child labor, like that of many other things to which the police power of the States has been and is constantly applied, is a subject necessitating familiarity with many conditions essentially local in their nature. This is demonstrated by the great number of exceptions and variations which appear in the legislation of all the States. Even Congress, when exercising its own discretion in an unquestioned jurisdiction—the regulation of child labor in the District of Columbia—found it necessary to except from the operation of the age limit the children employed by itself in the Senate of the United States.

The members of our association believe that the necessary effect of the principle of regulation proposed in this bill is, by virtue of the practical circumstances of commerce, to substantially substitute the commercial power of Congress for the police power of the States in dealing with all local circumstances of production. It is estimated by persons familiar with our industry and commerce that substantially somewhere between 80 and 90 per cent of the commodities produced in this country are consumed outside of the States in which they are produced. If Congress, under the commerce power, can regulate the conditions under which an article is to be produced that is to go into commerce, it substitutes its authority, practically speaking, not only for the police power of the various States themselves, but for the supervising judgment of boards of aldermen in every industrial community, and by the policy and principle of control proposed "many an error, by the same example, may creep into the State."

I do not question, and I am sure that no lawyer does, that there is a domain in which Congress can unquestionably exert complete control over the regulation of all the conditions of labor. I refer not only to the Territories and the District of Columbia, the government of which is exclusively vested in it, but to those cases which clearly vindicate the powers of Congress under the commerce clause to regulate the hours of labor of persons actually engaged in interstate commerce while so engaged and operating instrumentalities of such commerce. That, of course, includes not only the whole field of interstate railroad operation, but telephone, telegraph, and such other interstate carriers while clearly within the operation of that principle. It seems to me very clear that a messenger boy, for instance, engaged in the delivery of an interstate telegraphic message from the office where it is received, is an instrumentality of commerce. No attempt whatever is made in this measure to exert that unquestioned power within that unquestioned jurisdiction.

Now, if you will permit me, before proceeding to examine the principle of control itself, I beg to direct your attention to the terms of this measure. It is a highly penal statute.

I will ask at this point to have the bill inserted in the record that the committee may have before it the sections to which I address myself.

The CHAIRMAN. That will be done.

(The bill referred to is as follows:)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no producer, manufacturer, or dealer shall ship or deliver for shipment in interstate commerce the product of any mine or quarry situated in the United States which has been produced, in whole or in part, by the labor of children under the age of sixteen years, or the product of any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States which has been produced, in whole or in part, by the labor of children under the age of fourteen years or by the labor of children between the ages of fourteen years and sixteen years who work more than eight hours in any one day, or more than six days in any one week, or after the hour of seven o'clock postmeridian, or before the hour of seven o'clock antemeridian.

SEC. 2. Proof of the employment within sixty days prior to the shipment of such product therefrom (first) in a mine or quarry of a child under the age of sixteen years, or (second) in a mill, cannery, workshop, factory, or manufacturing establishment (a) of a child under the age of fourteen years, or (b) of a child between the ages of fourteen years and sixteen years for more than eight hours in any one day or more than six days in any one week, or after the hour of seven o'clock postmeridian, or before the hour of seven o'clock antemeridian shall be prima facie evidence that such product has been produced in whole or in part by the labor of such child.

SEC. 3. That the Attorney General, the Secretary of Commerce, and the Secretary of Labor shall constitute a board to make and publish from time to time uniform rules and regulations for carrying out the provisions of this act.

SEC. 4. That for the purpose of securing proper enforcement of this act the Secretary of Labor, or any person duly authorized by him, shall have authority to enter and inspect at any time mines, quarries, mills, canneries, workshops, factories, manufacturing establishments and other places in which goods are produced or held for interstate commerce; and the Secretary of Labor shall have authority to employ such assistance for the purposes of this act as may from time to time be authorized by appropriation or other law.

SEC. 5. That it shall be the duty of each district attorney to whom the Secretary of Labor shall report any violation of this act, or to whom any State factory or mining or quarry inspector, commissioner of labor, State medical inspector, or school-attendance officer, or any other person shall present satisfactory evidence of any such violation to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay for the enforcement of the penalties as in such cases herein provided: *Provided*, That nothing in this act shall be construed to apply to bona fide boys' and girls' canning clubs recognized by the Agricultural Department of the several States and of the United States.

SEC. 6. That any person who violates any of the provisions of section one of this act, or who refuses or obstructs entry or inspection authorized by section four of this act, shall for the first offense be punished by a fine of not more than $200 and for each subsequent offense shall be punished by a fine of not more than $1,000 nor less than $100, or by imprisonment for not more than three months, or by both fine and imprisonment, in the discretion of the court: *Provided*, That no dealer shall be subject to conviction under the provisions of this act who shall establish a guaranty issued by the person by whom such goods were manufactured or produced, resident in the United States, to the effect that in the manufacture and production of such goods, neither in whole nor in part, had children been employed or permitted to work in any mine or quarry under the age of sixteen years, or in any mill, cannery, workshop, factory, or manufacturing establishment under the age of fourteen years, or between the ages of fourteen years and sixteen years who worked more than eight hours in any one day or more than six days in any one week or after the hour of seven o'clock postmeridian or before the hour of seven o'clock antemeridian, and in such event the guarantor shall be amenable to any prosecution, fine, or penalty to which the person seeking the protection of such guaranty would otherwise have been subject under the provisions of this act. Said

guaranty, to afford the protection above provided, shall contain the name and address of the person giving the same.

SEC. 7. That the word "dealer" or the word "person" as used in this act shall be construed to include any individual or corporation or the members of any partnership or other unincorporated association. The term "ship or deliver for shipment in interstate commerce" as used in this act means to ship or deliver for shipment from any State or Territory or the District of Columbia to or through any other State or Territory or the District of Columbia.

SEC. 8. That in prosecutions under this act each shipment or delivery for shipment shall constitute a separate offense.

SEC. 9. That this act shall take effect from and after one year from the date of its passage.

Passed the House of Representatives February 2, 1916.

Attest:

SOUTH TRIMBLE, *Clerk.*
By J. C. SOUTH, *Chief Clerk.*

Mr. EMERY. The measure proposes to make it unlawful for any producer, dealer, or manufacturer to offer for shipment or to ship in interstate commerce any commodity produced in whole or in part by the labor of children below a certain age, or working for more than 8 hours of any calendar day, or more than 48 hours in any week. It establishes an administrative board consisting of the Attorney General, the Secretary of Labor, and the Secretary of Commerce, and empowers them to enact such rules and regulations as may be necessary for the administration of this bill. It further authorizes and directs the Secretary of Labor, for the purpose of enforcing this measure, to inspect all factories, workshops, mines, quarries, or canneries, or other places in which commodities are produced or held for shipment in interstate commerce. It obligates every district attorney of the United States upon the presentation of satisfactory evidence of various persons enumerated, or by any person, to proceed without delay to prosecute for violation of this act, and it makes each shipment a separate violation of the law.

For the practical purpose of enforcing the bill it establishes a rule of evidence expressed in the second section of the bill which provides that proof of the employment of any child under the forbidden conditions, or within the forbidden age, within 60 days of the shipment of any commodity in interstate commerce, shall be prima facie evidence that the commodity was produced in whole or in part by the labor of such child.

Now, in the first place, gentlemen, I ask you to note the term "produced in whole or in part by the labor of a child." The term is broader than the avowed object of the bill. As I understand it is the purpose of the proponents of this measure to regulate the employment of children in "mechanical" operations. But there is no such limitation here. It applies to any child whose labor contributes in whole or in part to the resultant production. As it applies by name to "manufacturing establishments," it is obvious that any child in that establishment whose act or whose service contributes to production is within the terms of this measure. It would therefore apply as fully to an errand boy in a manufacturing establishment who carried an order to any foreman or superintendent in any part of that plant who directs, governs, or guides the operation therein as it would to a child actually engaged in the operation of a machine.

Moreover, each separate shipment constitutes an offense, so that the volume of shipments and not the number of children employed meas-

ures the penalty which may be incurred. An establishment making 500 shipments per day and employing 1 child would incur 10 times as many penalties as an establishment employing 200 children within the forbidden age and making but 50 shipments per day. The measure is not aimed at production in which children are exclusively employed. An establishment may have 10 or 12 or 20,000 operatives, but the employment of 1 child under 16 whose service may be said to contribute to the production of a commodity which is shipped in interstate commerce contaminates and penalizes every shipment flowing from that plant, although each article is otherwise sound and wholesome.

So it is apparent that the exclusive employer of children is to be penalized far less than the employer of a few children with a larger volume of shipments.

Now, I ask you to observe that rule of evidence proposed here is not only perfectly consistent with the complete innocence of a person engaged in manufacturing production in any State, or of any dealer, but it sets up as prima facie evidence of the violation of the act the condition under which lawful production for domestic consumption may be carried on. If in any State a child under 16 years of age is employed in an establishment working for more than hours, as forbidden by this measure, but who, under the law of that State, may be lawfully employed in that particular occupation, that child while engaged in lawful production for domestic use only supplies prima facie evidence of the violation of this proposed statute by every shipment in interstate commerce that passes out of that plant during the period of his employment. So not only is the presumption created entirely consistent with the innocence of the accused but by the innocent exercise of his legitimate right of employment he provides the evidence of his guilt.

Now, the "guaranty" provided in the bill does not insure the dealer against prosecution. It secures him only against "conviction." It is therefore a defense which he may set up, but it provides no immunity whatever against his arrest, prosecution, and the inconvenience, expense, and disgrace which may attend it.

I think the committee will agree as a fundamental principle of law that "due process of law" applies not less to immunity from arbitrary arrest and prosecution than to immunity from conviction and imprisonment. Indeed, in the twenty-ninth chapter of Magna Charta, in which "due process of law" had its birth, we read that "no freeman shall be taken" (that is, arrested) "or imprisoned or outlawed or banished or any ways destroyed, nor will the king pass upon him or commit him to prison unless by the judgment of his peers or the law of the land." Of course, it is needless to say the phrase "due process of law" is the equivalent of "the law of the land."

In entering upon a discussion of the validity of this proposal, I trust I realize the distinction between the argument which I may make to you and the argument which may be addressed to any court before which the validity of these provisions is in dispute. No court may set aside an act of Congress until it is clearly shown that the Legislature has plainly exceeded its power, no matter how unwise or even absurd the policy of the act may be. It is not in the power of any court to question the wisdom of any policy pursued, granted

that power to enact resides in the legislative body. On the other hand, I assume that Congress scrutinizes the nature and extent of any power under which it is urged to act whenever that power is seriously challenged, because it is a legislative body having its authority conferred and measured by the Constitution of the United States, possessing only limited enumerated powers which are in their turn conditioned by the express inhibitions of the Constitution.

I must indeed disagree with the suggestion made by Mr. Parkinson in the course of his argument that only the fifth amendment limited the exercise of the commerce power. On the contrary, there are many provisions of the Constitution that not only may limit the exercise of the commerce power but which, in the course of many decisions, have been expressly held to do so.

The nature and effect of these prohibitions I expect to consider; before doing so, however, I trust you will permit me to express what I assume to be the state of mind of the legislature toward a proposal of this character. I quote from Judge Cooley in his "Principles of Constitutional Law," a statement frequently approved by legislators as truly descriptive of the position they will take when confronted with the necessity of determining their powers (Cooley "Principles of Constitutional Law" second edition, p. 150):

> Legislators have their authority measured by the Constitution; they are chosen to do what it permits, and nothing more, and they take solemn oath to obey and support it. When they disregard its provisions, they usurp authority, abuse their trust, and violate the promise they have confirmed by an oath. To pass an act when they are in doubt whether it does not violate the Constitution, is to treat as of no force the most imperative obligations any person can assume. A business agent who would deal in that manner with his principal's business would be treated as untrustworthy; a witness in court who would treat his oath thus lightly, and affirm things concerning which he was in doubt, would be held a criminal. Indeed, it is because the legislature has applied the judgment of its members to the question of its authority to pass the proposed law, and has only passed it after being satisfied of the authority, that the judiciary waive their own doubts, and give it their support.

And Mr. Taft, a distinguished judge, when he vetoed the Webb-Kenyon Act referred to this matter, and I trust I may be permitted to read what he then said in affirmation of the same principle, referring to the legislative and executive duty of determining when an act was valid. He said:

> But it is said that this is a question with which the Executive or Members of Congress should not burden themselves to consider or decide. It is said that it should be left to the Supreme Court to say whether this proposed act violates the Constitution. I dissent utterly from this proposition.

Senator CLAPP. Will you permit me to interrupt you there? Have you heard a legislator say that that was a matter with which he had no concern?

Mr. EMERY. No; not that he had no concern.

Senator CLAPP. I am using the language quoted there.

Mr. EMERY. I do not know what Mr. Taft had in mind, but I do know that in the committee of the House in which this matter was discussed, it was set up that the matter of constitutionality was not one upon which it was necessary for them to concern themselves; that it was a matter to be decided by the Supreme Court, and if a legislator ever hesitated to act where he was in doubt whether he was vested with power or not, there would be no progress.

Senator CLAPP. That is a very different statement.

Mr. EMERY. Yes, sir. He proceeds:

The oath which the Chief Executive takes, and which each Member of Congress takes, does not bind him any less sacredly to observe the Constitution than the oaths which Justices of the Supreme Court take. It is questionable whether the doubtful constitutionality of a bill ought not to furnish a greater reason for voting against the bill, or vetoing it, than for the court to hold it to be invalid. The court will only declare a law invalid where its constitutionality is clear, while the lawmaker may very well hesitate to vote for a bill of doubtful constitutionality because of the wisdom of keeping clearly within the fundamental law. The custom of legislators and executives having any legislative function to remit to the courts entire and ultimate responsibility as to the constitutionality of the measures which they take part in passing is an abuse which tends to put the court constantly in opposition to the legislature and executive, and, indeed, to the popular supporters of unconstitutional laws. If, however, the legislators and the executives had attempted to do their duty this burden of popular disapproval would have been lifted from the courts, or at least considerably lessened.

I trust you will permit me at this point to say one word with respect to a matter that I will discuss more specifically at a later moment, that is the very great danger which lies in exciting collision between the respective powers of State and Nation. It touches a grave and delicate relationship, which, as you gentlemen well know, has been the subject of continuous debate and apprehension. I can recall no one who in recent years has expressed more strongly and clearly the peril that lies in the creation of any policy, the effect of which is to upset that delicate and essential balance of power, than Senator Root, who in the course of his address on "The Essentials of the Constitution," at Princeton University a year and a half ago, made this remarkable statement:

If the power of the States were to override the power of the Nation, we should ultimately cease to have a Nation and become only a body of really separate, although confederated, State sovereignties, continually forced apart by diverse interests and ultimately quarreling with one another and separating altogether. On the other hand, if the power of the Nation were to override that of the States and usurp their functions, we should have this vast country, with its great population, inhabiting widely separated regions, differing in climate, in production, in industrial and socal interests and ideas, governed in all its local affairs by one all-powerful central government at Washington, imposing upon the home life and behavior of each community the opinions and ideas of propriety of distant majorities. Not only would this be intolerable and alien to the idea of free self-government, but it would be beyond the power of a central government to do directly. Decentralization would be made necessary by the mass of Government business to be transacted, and so our separate localities would come to be governed by delegated authority—by proconsuls authorized from Washington to execute the will of the great majority of the whole people. No one can doubt that this also would lead by its different route to the separation of our Union. Preservation of our dual system of Government, carefully restrained in each of its parts by the limitations of the Constitution, has made possible our growth in local self-government and national power in the past, and so far as we can see it is essential to the continuance of that Government in the future.

Senator CLAPP. I do not want to interrupt you too often, but would you take that as maintaining that the Federal Government ought not to do any of the things committed to it by the Constitution?

Mr. EMERY. On the contrary, I should say it can do and ought to do all the things committed to it by the Constitution and no more.

Senator CLAPP. And that is determined in all cases first by Congress and finally by the Supreme Court of the United States?

Mr. EMERY. Yes, sir; but I have in mind particularly——

Senator CLAPP. Then within the Constitution, as interpreted first by Congress and secondly by the Supreme Court, there can be no dangers as pointed out there.

Mr. EMERY. None whatever, unless the rights not only of the States, but of individuals to local self-government is denied. Self-government is not only an essential fundamental right of the States, but it is an essential fundamental right of the citizen, which existed prior to the adoption of the Constitution. It was not created by it, but is a right which the Constitution of the United States was brought into being to protect and perpetuate.

Senator CLAPP. But must be subordinate to whatever the Constitution has said, as interpreted by Congress and then by the courts?

Mr. EMERY. Yes, sir. But I have in mind particularly the argument so often made to support a continuously larger use of so-called "inherent" national powers, which it is urged will secure "uniformity" in legislation. I will show you presently that has been insistently presented in the Supreme Court to sustain what has been held to be unconstitutional legislation, and it is often said, too, that if we had a larger exercise of central legislative authority we would not have this collision of State laws, which is frequently inconvenient and exasperating to the citizens of the United States, but the price we should have to pay for uniformity thus obtained is the surrender of local self-government with its peculiar adaptability to immediate circumstance and condition.

Mr. Justice Hughes, in his recent address to the New York Bar Association in January, reverting to that contention, said:

> But in the face of the difficulties already before us, and destined to increase in number and gravity, we remain convinced of the necessity of autonomous local governments. An overcentralized government would break down of its own weight. It is almost impossible even now for Congress in well nigh continuous session to keep up with its duties, and we can readily imagine what the future may have in store in legislative concerns. If we did not have States we should speedily have to create them. To preserve the essential elements of this system, without permitting necessary local autonomy to be destroyed by the unwarranted assertion of Federal power, and without allowing State action to throw out of gear the requisite machinery for unity of control in national concerns, demands the most intelligent appreciation of all the facts of our interrelated affairs and far more careful efforts in cooperation than we have hitherto put forth.

Senator POINDEXTER. I would like to ask you one question. You have no objection to the passage of a law similar to this by the States, have you?

Mr. EMERY. Not at all.

Senator POINDEXTER. The National Manufacturers' Association does not object to the regulation? You are basing your objection on the high ground of an invasion of the constitutional rights of the States?

Mr. EMERY. And of the individual who is entitled, as part of local self-government, to have the local regulatory authority pass fully upon the local conditions of manufacture as distinguished from conditions of commerce.

Senator CLAPP. Can the right of the State or the citizen be said to be invaded under our Constitution when Congress and the Su-

preme Court in any given case have said that the act is warranted by the Constitution?

Mr. EMERY. No, indeed.

Senator CLAPP. Then it is simply a question of whether or not the condition warrants the act?

Mr. EMERY. Yes, sir; exactly. That is what I am proceeding to discuss.

Senator CLAPP. But men outside discuss things that when you get to the last analysis are remitted to Congress and the courts, and when pronounced upon by the court, can not, under our Constitution, be wrong.

Mr. EMERY. I am alluding to the popular argument, widely diffused, in support of this and other similar proposals of legislation, and I am only taking the liberty of pointing out the delicacy and difficulty of dealing with local subjects through the exercise of this national power.

Senator CLAPP. I do not like to interrupt you, but when I am making an argument I very much prefer the man I am making it to, if a certain matter suggests itself, to interrupt rather than to sit silent.

Mr. EMERY. I am very glad to have you do so, because it is my purpose if I can to be of assistance to the committee, and to that end I desire interruption. It does not interfere with the course of my argument in the least. It only permits me, if I have the power to do it, to make it more pointed.

I beg now to ask the indulgence of the committee while I examine the validity of this proposal, asserting first:

The commerce power in its origin and nature is distinct and different from the police power, although possessing at times the quality of police power in its exercise. It is the plenary and exclusive right of Congress to make rules governing intercourse between the States and foreign nations. It does not include the right to regulate production or manufacture except as incidental to its exercise, and it is limited in its exercise expressly and implicitly by various amendments of the Constitution.

This bill is a regulation of production under the guise of regulating commerce.

Turning back, for an instant, to the first great case to which all interpreters of the Constitution constantly revert as the first and greatest exposition of the nature and extent of the commerce power, that of Gibbons *v.* Odgen—I call your attention to what the great Chief Justice then said of the origin of this power:

> In pursuing this inquiry at the bar, it has been said that the Constitution does not confer the right of intercourse between State and State. That right derives its source from those laws whose authority is acknowledged by civilized man throughout the world. This is true. The Constitution found it an existing right and gave to Congress the power to regulate it.

You gentlemen are familiar with the conditions which caused the Federal Congress to be vested with the plenary and exclusive power "to regulate commerce between the States."

You, of course, recognize that it was the vexatious restrictions which the Colonies laid upon intercourse with each other during that unhappy period following the end of the Revolutionary War, and until the adoption of the Constitution, which the great historian

Fiske described as "the critical period of American history," which was one of the chief causes that impelled not only the adoption of the Constitution creating a Federal Union but the conferring of the exclusive power to regulate commerce between the States upon the Federal Government, subject only to such inhibitions as are contained in the Constitution.

You gentlemen are familiar with the fact that the conflict between the Colonies—especially those having ports on the seaboard, and the inland States, whose commerce was taxed by them, had reached such a point that the Colonies themselves were on the verge of civil war. Not only were New York and New Jersey at daggers points, but Virginia and Maryland, and you will recall that the Colony of Connecticut utterly suspended all commercial intercourse with the Colony of New York because of the exasperating tariff policy of the latter.

So, as has been well said again and again by the courts and historians, the purpose of centralizing the commerce power, was to make commerce free, not to transfer the power of laying upon citizens of the States the restrictions which they had resented. It was pointed out by the court in the Slaughterhouse cases, in 83 United States, that the fourth article of the Confederation was the source of that provision of the Constitution which guarantees that the privileges and immunities of each citizen of every State shall be those of the citizen of every other State; and that the fourth amendment dealt with a feature of the flow of commerce between the Colonies which the Confederation was utterly unable to enforce. The fourth article of the Confederation to which the court there referred read:

ARTICLES OF CONFEDERATION.

Article IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States of the Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof, respectively; provided, that such restriction shall not extend so far as to prevent the removal of property imported into any State to any other State, of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction shall be laid by any State on the property of the United States, or either of them.

In the case of Gibbons *v.* Ogden, Justice Marshall pointed out the difference in nature between the exercise of those police powers peculiar to the State and the commerce power conferred upon the National Legislature, and laid down the rule that has persisted to this day:

(Gibbons *v.* Ogden, 9 Wheat.:)

We know of no rule for construing the extent of such power other than is given by the language of the instrument which confers them taken in connection with the purpose for which they were conferred. * * *

But the inspection laws are said to be regulations of commerce, and are certainly recognized in the Constitution as being passed in the exercise of a power remaining with the States.

That inspection laws may have a remote and considerable influence on commerce will not be denied; but that a power to regulate commerce is the source from which the right to pass them is derived can not be admitted. The object of inspection laws is to improve the quality of articles produced by the labor of a country; to fit them for exportation; or, it may be, for domestic use.

They act upon the subject before it becomes an article of foreign commerce, or of commerce among the States, and prepare it for that purpose. They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government; all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, etc., are component parts of this mass.

No direct general power over these objects is granted to Congress, and consequently they remain subject to State legislation. If the legislative power of the Union can reach them it must be for national purposes; it must be where the power is expressly given for a special purpose, or is clearly incidental to some power which is expressly given.

Not many years later there occurred a case interpreting the commerce power, which was the subject of not only strong argument and much public discussion but of a remarkable dissent by Mr. Justice Story which he refers to in his "Commentaries on the Constitution" and in which he relates the circumstances of his dissent, and points out as one of the strongest cases, which of course he accepted, the line of demarcation between the commerce power of the Nation and the police power of the respective States. I allude to the case of the city of New York *v.* Miln, to be found in 11 Peters, 102:

This act required the master of any ship arriving from a foreign port, or from one of the other States, within 24 hours after its arrival, to report to the mayor in writing, on oath or affirmation, the name, place of birth, last legal settlement, age, and occupation, of every passenger brought in such ship to the city of New York, or permitted to land at any place, or put on board any other ship with an intention of proceeding to the city, under a penalty of $75 for every passenger, to be paid by the master, owner, or consignee. It further required each master to give bond to the mayor, with two sureties, in a sum not exceeding $300 for each passenger not a citizen of the United States, to save harmless the mayor, etc., and the overseers of the poor from all expenses and charges, which might be incurred in the maintenance and support of such passenger, under a penalty of $500.

The court pointed out that in all these matters relating to the purely internal affairs of the State the fact that the exercise of the police power incidentally touched the commerce power itself did not invalidate the State's act, for its purpose was clearly to provide for the welfare of the State and its citizens by protecting them from the charge, through taxation, that would be laid upon them to support those who, by the circumstances of their condition, were likely to become public charges. The court said:

We plant ourselves on what we consider impregnable positions. They are these: That a State has the same undeniable and unlimited jurisdiction over all persons and things, within its territorial limits, as any foreign nation, where that jurisdiction is not surrendered or restrained by the Constitution of the United States. That by virtue of this it is not only the right but the bounden and solemn duty of a State to advance the safety, happiness, and prosperity of its people and to provide for its general welfare by any and every act of legislation which it may deem to be conclusive to these ends, where the power over the particular subject or the manner of its exercise is not surrendered or restrained in the manner just stated. That all those powers which relate to merely municipal legislation, or what may, perhaps, more properly be called internal police, are not thus surrendered or restrained; and that, consequently, in relation to these the authority of a State is complete, unqualified, and exclusive.

Now, they went on to say:

We are aware that it is at all times difficult to define any subject with proper precision and accuracy. If this be so in general, it is emphatically so in relation

to a subject so diversified and multifarious as the one which we are now considering.

If we were to attempt it we should say—

and this is the essential distinction between these powers—

we should say that every law came within this description which concerned the welfare of the whole people of the State or any individual within it, whether it related to their rights or their duties, whether it respected them as men or as citizens of the State, whether in their public or private relations, whether it related to the rights of person or of property of the whole people of a State, or of any individual within it, and whose operation was within the territorial limits of the State and upon the persons and things within its jurisdiction.

That case has been quoted again and again by the Supreme Court with approval.

There are many cases that I might call to your attention, but I realize that you are familiar with them and I do not desire to consume your time needlessly. But, as a striking instance again of the sharp line of distinction between police power and commercial power, let me call your attention to a decision written by Chief Justice Chase in 1868, the case of De Witt *v.* The United States; I think it is 9 Howard.

Congress had enacted as part of revenue act a provision which forbade the mixing of naphtha and benzine, and prescribed a flash test for illuminating oil. A citizen of Michigan was arrested for selling benzine which violated this statute. He contended the act was not a valid exercise of the regulatory power of Congress, and it was defended on that ground; first, that it was an exercise of the taxing power in relation to internal revenue; secondly, that it "may" have been passed to protect the commerce of which benzine so made was to be a part. The Chief Justice wiped that away by pointing out that in the first place the act was in its nature an exercise of the police power and confined to the States, and that, secondly, it bore no relation to commerce.

Senator POMERENE. Was this an act of Congress?

Mr. EMERY. Yes, sir; it was an act of Congress, and the court invalidated the act and dismissed the prisoner.

A most striking case that seems to go to the very root of the question, whether this is a regulation of production or of commerce, is one that came from the State of the distinguished Senator from Iowa (Mr. Cummins), the case of Kidd *v.* Pearson, to be found in One hundred and twenty-eighth United States—I am reading from the law edition, United States Supreme Court Reports. The case is found on page 346——

Senator POINDEXTER. What volume of the law edition is that?

Mr. EMERY. It is the thirty-second volume. The case was decided in 1888. The State of Iowa had passed a law prohibiting the manufacture of alcoholic spirits except for medicinal, mechanical, culinary, or sacramental purposes, and the defendant, Pearson, continued to manufacture distilled spirits, but solely for export from the State. He was arrested and convicted under the statute, and the Supreme Court of Iowa sustained his conviction. The case came into the Supreme Court of the United States upon a writ of error from that court.

It was contended by counsel for the prisoner that where a subject is national in its character the power of Congress is exclusive of all

State regulations, and, secondly, that inasmuch as this was a recognized article of commerce the State had no power to prohibit the manufacture of it for export, and that under the commerce power the authority of Congress attached to it, even in the course of manufacture, when it was manufactured even within the boundaries of the State, but only for export purposes. The court disposed of the first point upon the ground that it gratuitously presumed that the liquor was manufactured lawfully, which it was not, because the State of Iowa possessed the exclusive power under its police authority to determine whether alcoholic liquor could be manufactured or not, and as it was not manufactured for one of the four excepted purposes, it was unlawfully manufactured. Then, asked the court, does the fact that it was manufactured exclusively for commerce attach the commerce power to it? Why, no, they said, such a position is impossible, because if we took the position that because an article is manufactured even exclusively for export—and, mind you, that is the state of facts here—the commerce power of Congress attached to it, then the power of Congress would exclusively attach to everything produced for export between the States. And what would be the result? This unanimous decision, written by Mr. Justice Lamar, goes to the very heart of the pending bill not only as a proposition of law, but as a remarkable exposition of the effect of its revolutionary policy.

"We think," said the court, "the construction contended for by plaintiff in error would extend the words of the grant to Congress, in the Constitution, beyond their obvious import and is inconsistent with its objects and scope."

Then it goes on to quote the section of the Constitution from which the commerce power is derived and some of the language in Gibbons *v.* Ogden. The court proceeds:

> No distinction is more popular to the common mind or more clearly expressed in economic and political literature than that between manufactures and commerce. Manufacture is transformation—the fashioning of raw material into a change of form for use. The functions of commerce are different. The buying and selling and the transportation incidental thereto constitute commerce, and the regulation of commerce in the constitutional sense embraces the regulation at least of such transportation.

Then it proceeds to quote from the case of the County of Mobile *v.* Kimball (102 U. S.), as follows:

> Commerce with foreign nations and among the States, strictly considered, consists in intercourse and traffic, including in these terms navigation and the transportation and transit of persons and property as well as the purchase, sale, and exchange of commodities.

Then this court proceeds:

> If it be held that the term includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the States, with the power to regulate, not only manufacture, but also agriculture, horticulture, stock raising, domestic fisheries, mining—in short, every branch of human industry. For is there one of them that does not contemplate, more or less clearly, an interstate or foreign market? Does not the wheat grower of the Northwest and the cotton planter of the South plant, cultivate, and harvest his crop with an eye on the prices at Liverpool, New York, and Chicago? The power being vested in Congress and denied to the States, it would follow as an inevitable result that the duty would devolve on Congress to regulate all of these delicate, multiform, and vital

interests—interests which in their nature are, and must be, local in all the details of their successful management.

It is not necessary to enlarge on, but only to suggest, the impracticability of such a scheme when we regard the multitudinous affairs involved and the almost infinite variety of their minute details.

It was said by Chief Justice Marshall that it is a matter of public history that the object of vesting in Congress the power to regulate commerce with foreign nations and among the several States was to insure uniformity of regulation against conflicting and discriminating State legislation. See also County of Mobile *v.* Kimball, supra, 697 (26:240).

This being true, how can it further that object so to interpret the constitutional provision as to place upon Congress the obligation to exercise the supervisory powers just indicated? The demands of such a supervision would require not uniform legislation generally applicable throughout the United States, but a swarm of statutes only locally applicable and utterly inconsistent. Any movement toward the establishment of rules of production in this vast country, with its many different climates and opportunities, could only be at the sacrifice of the peculiar advantages of a large part of the localities in it, if not of every one of them. On the other hand, any movement toward the local, detailed, and incongruous legislation required by such an interpretation would be about the widest possible departure from the declared object of the clause in question. Nor this alone. Even in the exercise of the power contended for Congress would be confined to the regulation not of certain branches of industry, however numerous, but to those instances in each and every branch where the producer contemplated an interstate market. These instances would be almost infinite, as we have seen, but still there would always remain the possibility, and often would be the case, that the producer contemplated a domestic market. In that case the supervisory power must be executed by the State; and the interminable trouble would be presented that whether the one power or the other should exercise the authority in question would be determined not by any general or intelligible rule, but by the secret and changeable intention of the producer in each and every act of production. A situation more paralyzing to the State governments, and more provocative of conflicts between the General Government and the States, and less likely to have been what the framers of the Constitution intended, it would be difficult to imagine.

Now, Senator Cummins referred the other day——

Senator POMERENE. Before going into that matter I am not quite sure that I catch the force of your argument. I do not quite see how the Iowa case is a parallel with the matter under consideration. If this were a question involving the validity of some State legislation in one of the Carolinas, for instance, on the subject of the hours of labor, and the question was before our Supreme Court—a case was before the Supreme Court involving the validity of that State legislation—then I could see how that Iowa case would be parallel. But this is a question not of State legislation affecting manufacturing but of Federal legislation affecting the power to regulate interstate commerce. So I do not quite see how your case is decisive of the case at bar.

Mr. EMERY. I will endeavor to point it out as I see it. The question presented in the Kidd *v.* Pearson case was, Did the commerce power attach to an article manufactured wholly within the State and otherwise within the exclusive jurisdiction of the State to regulate, because such article of manufacture was intended only for such commerce? The court answered, no, it did not; and that principle involves, if upheld, the right of Congress to say that because any commodity is produced to be exported to another State the commerce clause authorizes Congress to control the manufacture of that article.

The object of this bill, frankly stated, is to prevent the creation of an employment relation between children below a certain age and employers engaged in production.

Senator SMITH of South Carolina. You are contending, in the citation of this case from Iowa, that the court had decided that the Federal Government had no right under the commerce clause to do the very thing that this bill is contemplating trying to do?

Mr. EMERY. Exactly so.

Senator SMITH of South Carolina. And have denied it the right to do in that decision?

Mr. EMERY. I think it is perfectly parallel in principle. I think, indeed, it is strengthened by the fact that the defense rested upon just one proposition—that the commodity in question was made exclusively for export. The thing we are making, they said, is to go nowhere except into another State. It is not to be sold or used in this State, and for that reason, because it is manufactured only for export, the commerce power attaches to protect its manufacture and prevent interference by the State, which otherwise would have the power to regulate it.

Now, the object of this bill, frankly admitted, is to prohibit child employment. The means adopted to accomplish the regulation of that employment relation, existing wholly within a State and antecedent to any act of commerce, is to exclude the article produced from commerce between the States.

Now, I assume that this committee agrees that when you proceed to exercise constitutional power, it must be not only for a constitutional purpose but by the use of constitutional means. You may approve a purpose, yet object to the means by which it is to be accomplished. We may approve, and indeed applaud, the man who undertakes to provide for his old mother's declining years by giving her the means wherewith to live, but we utterly repudiate the idea that this purpose justifies him in separating a citizen from his wallet. His purpose is laudable; his means objectionable. We approve the one and condemn the other.

Now, I will ask you gentlemen to note that there is not only a distinction but a difference in the very nature of things between the control of production and the control of commerce, between the control of manufacture and the control of intercourse which the Supreme Court has said again and again is the meaning of the grant of that commerce power; that is, the right to regulate commerce is the right to prescribe the rules under which that commerce shall flow, and to regulate those engaged in it, but only while actually engaged in such commerce. I will presently show you that this court has invalidated legislation by Congress which undertook to regulate those who engaged in commerce when not actually engaged therein or when engaged in intrastate as distinguished from interstate commerce, and, mind you, the question there is only whether they were engaged in commerce between States or within the State. The proposition that you undertake to regulate here is not commerce between States as distinguished from commerce wholly within a State, but a condition of production within a State, not a circumstance of intercourse between States. Commerce and manufacture intercourse and production are two different and distinct things. One is completely ended before the other begins. One can not originate until the other is concluded. In a long line of decisions upon a variety of cases our courts have determined where the commerce power attaches to and relinquishes commodities in transit between the States.

In the commodity clause cases I beg you to notice the position which the court took to save the statute, for, obviously, from that decision, the principle here demanding recognition would have been declared invalid. In the commodities act you will recall that Congress forbade transportation by a carrier of commodities manufactured, mined, or controlled in their origin by the carrier. In the language of the court the statute in part undertook to "divorce the dual relation of public carrier and private transporter." There was no conflict in the mind of the court over the proposition that Congress could separate those two elements as a further means of protecting the shipper against discrimination. This the court conceded. But, said the court, and I am reading from the United States *v.* Delaware & Hudson (213 U. S., 407):

> With these concessions in mind, and despite their far-reaching effect, if the contentions of the Government as to the meaning of the commodity clause be well founded, at least a majority of the court are of the opinion that we may not avoid the following grave constitutional questions:

Mind you what the contention of the Government was in that case. "This is a radical measure," said its counsel, and was intended to be such. We ask you to interpret this law to mean this: First, that a carrier who manufactures a commodity or mines coal not only can not transport it while it is the owner of it, but it can never transport that which it owned or mined, no matter who afterwards owns it; and, secondly, we ask you to hold that a stock interest in a corporation held by a carrier prevents that carrier from carrying anything produced by the corporation in which it possesses a stock interest. That was the position of the Government.

Now, to this the court said:

> If we are to take the position which the Government contends for, a majority of the court are of the opinion that we may not avoid the following grave constitutional questions.

Both questions are at issue here. I lay stress upon the word "control" here as well as the question of "prohibiting," because the two go together.

The court continues:

> 1. Whether the power of Congress to regulate commerce embraces the authority to control or prohibit the mining, manufacturing, production, or ownership of an article or commodity, not because of some inherent quality of the commodity, but simply because it may become the subject of interstate commerce.
>
> 2. If the right to regulate commerce does not thus extend, can it be impliedly made to embrace subjects which it does not control by forbidding a railroad company engaged in interstate commerce from carrying lawful articles or commodities because at some time prior to the transportation it had manufatcured, mined, produced, or owned them, etc.? (U. S. *v.* Delaware & H. Co., 213 U. S., 406–7.)

The court said, substantially, to approve the Government's contention we are faced with these two propositions. But we do not pass upon them because we believe that we can so construe this act within its language and the intent of Congress as to keep it valid, and we believe that under the two permissible constructions here presented—one of which, that asked by the Government, invalidates the legislation and the other of which sustains it—it is the duty of this court to give effect to the saving construction. The court then construes the act, not as the Government insisted, so as to

avoid approving either of the grave propositions, affirmative replies to which the court plainly intimated would compel it to annul the act. They looked squarely at the principle upon which this measure is predicated, and said, "We won't approve that, but we will, on the contrary, give a construction which saves the validity of the act."

So I submit the Commodity Clause cases clearly fortify the position we take.

Now, you gentlemen are familiar with the debates which took place on the Beveridge bill—I believe some members of this committee were members of the Senate at that time—and you will recall that the only distinction, except with respect to the rule of evidence, between this bill and the Beveridge bill is that the Beveridge bill undertook to penalize the carrier who received the commodity for transportation, while this bill penalizes the manufacturer or producer who offers it for transportation. That bill was extentively debated, and you will recollect that Senator Spooner and Senator Knox, who had just retired as Attorney General and who had directed the famous lottery case that has been referred to here, and which I think, is clearly distinguishable from any proposition at bar, utterly denied that the lottery case was any authority for the proposal contained in the Beveridge bill. Senator Knox went so far as to say that the Government endeavored to get the Supreme Court to approve such a principle, but they declined to do it. You will find that in the debates of the Senate, I think, on January 29, 1907 or 1908.

Mr. KITCHIN. 1907.

Mr. EMERY. While this debate was proceeding in the Senate—and I know of no other Senator on the floor who ever supported the constitutional proposals set forth by Mr. Beveridge—the House had before it a proposed appropriation for the investigation of female and child labor, and Mr. Tawney, chairman of the Committee on Appropriations, raised the question of what jurisdiction, if any, Congress possessed over the subject of female and child labor, and what power, if any, it possessed under the Constitution to ameliorate its conditions. That question was referred to the Judiciary Committee of the House, and that committee reported February 7, 1907. It was a very able committee, and the report was unanimous. It was not a vague report. It deliberately took up and examined the very proposition here involved, Can Congress, under the commerce clause, regulate directly or indirectly the conditions of female and child labor engaged wholly within a State? The answer was no.

It is not a debatable question. It would be a reflection upon the intelligence of Congress to so legislate. It would be casting an unwelcome burden upon the Supreme Court to so legislate.

That is the precise language. You will find in the report set forth at great length the reasoning of the committee. (Rept. No. 7304, 59th Cong., 2d sess.)

Now, no commentator upon the Constitution, of recognized authority and who as examined this proposal, has given it approval. Mr. Taft, with a reputation as a jurist, has expressly declared in flat language that in his opinion it is a "usurpation" of the authority of the States. Mr. Watson, in his work on the Constitution,

takes the same position. Mr. Willoughby took the same position, but I understand, from the statement of Mr. Parkinson here, that he has since modified his opinion. It does not appear, I understand, in any later version of his works. Perhaps it will, but if you gentlemen are interested, I suggest that you examine the disapproving opinion in order that you may see if its reasoning is at all affected by the subsequent modification. All the weight of authority is against this proposal.

Now we state, as a second contention, that the intention of the manufacturer to export in commerce can not be used as a basis upon which to predicate this power.

Persons, firms, or corporations engaging in interstate commerce, or producing for shipment therein, are not subject to the commercial power of Congress save while actually engaged in interstate transactions or operating or using instrumentalities of commerce. Such persons, firms, and corporations, while producing commodities for interstate transportation, and before shipping them from the State of origin to the State of destination, are subject to and entitled to the local regulation of such production by the State.

If this bill predicates its authority to regulate production upon the fact that the producer intends to, or ultimately does, ship his commodity in interstate commerce, it is an invalid exercise of the commercial power. By the terms of the fourth section of the bill it does assert a right to regulate production because the subject matter of regulation is prepared or held for shipment in interstate commerce.

Of course, if Congress possesses the power to exclude from commerce the products of child labor, it unquestionably possesses the power to use such means as are necessary and appropriate to enforce its will; but the proposal contained in the fourth section of this bill, that the Secretary of Labor shall provide for national factory inspection, by invading and scrutinizing all those places in which articles are produced or held for interstate commerce, obviously predicates the right to inspect or to regulate upon the fact that the article, while held in the territory and subject to the jurisdiction of the State of its origin, is intended to go into interstate commerce. You predicate your authority for inspection upon that proposition——

Senator POINDEXTER. All that is directed rather to the secondary matters of the enforcement of the law.

Mr. EMERY. Yes, sir. I do not see anything in that if you possess the primary power to exclude, for then your power to provide the means by which to execute your will can not be questioned.

Senator POINDEXTER. As to the main question of the power of Congress to interpose an objection to the shipment of an article out of the State, that is the principal question here, and you deny the constitutionality of that, I understand?

Mr. EMERY. Yes, sir; but I say this is part of the original proposition. If the original proposition is right, if it is a valid exercise of the commerce power, if this is a regulation of commerce and not of production, I do not question your right to use appropriate means to enforce it. But I do say the very terms of the inspection system by which you undertake to enforce it is a declaration of your intent to predicate your authority upon the proposition that because an

article is destined or intended for interstate commerce but still within the State of its origin it is within reach of the commerce power, and I want to call your attention now to a case which meets that contention squarely.

Senator TOWNSEND. Let me ask you a question there. Do you deny that Congress would have any right to regulate the shipment of these goods in commerce if it did not apply back to the manufacturer of them; for instance, could we put an imposition on the railroads, preventing shipments in interstate commerce?

Mr. EMERY. I want to discuss that, if I may, under another heading, when I undertake to discuss contraband or outlawed articles. That is a distinct proposition.

Senator POINDEXTER. Before you take up that case, if it is not confusing, I want to ask something in regard to this Kidd case. The question there was not involved, was it, at all, as to the power of Congress to prohibit the shipment of liquors from one State into another?

Mr. EMERY. Are you speaking of the power of Congress to prohibit the shipment of liquors?

Senator POINDEXTER. Yes.

Mr. EMERY. That question, of course, is not at issue anywhere.

Senator POINDEXTER. Well, a similar question is the principal one in this bill—the power of Congress to prohibit the shipment of certain articles from one State to another. That is the main question involved in this bill, and it was not involved at all in the Kidd case.

Mr. EMERY. Pardon me; I think the Kidd case is the strongest case to be stated for the bill, for this reason: You are not undertaking in this bill to prohibit the shipment of articles in interstate commerce because of anything inherently bad in the article itself, but you look back to conditions under which it was made, to a contract between the employer and the child, the employment relationship, and you say that because of that employment relationship these articles, otherwise good, shall be prohibited in commerce. In other words, you say—and I shall presently consider the rule of construction if it be disputed—you say on the face of this bill that because you employ children in the production of an article under conditions which are in violation of the standard established by Congress, for that reason alone we exclude the goods from commerce. A lump of coal coming from a mine in which one child is employed below the prohibited age becomes an illicit article of commerce not because there is anything wrong with that coal, or that it can be distinguished from any other piece of coal, but because upon inspecting that mine you find employed a child under age. By virtue of the fact that he is in the mine you assume through a rule of evidence that he has contributed to the production of that commodity, and you exclude it from commerce.

Senator POINDEXTER. I see the point there, and I think that is an arguable question. I was only referring to the Kidd case because you quoted that as being a case applicable here. It seems to me it does not involve the point and does not touch the point that you are now arguing. You say that these articles manufactured by child labor in themselves are innocuous. The Kidd case was dealing with liquor——

Mr. EMERY. Yes, sir.

Senator POINDEXTER. Which may be held to be deleterious, and, secondly, may be prohibited in commerce. So the Supreme Court, in deciding the Kidd case, did not lay down any rule whatever as to denying Congress the power in the matters that were involved in that case to do what the proponents of this bill are seeking to do.

Mr. EMERY. Let us see whether it did or not. The proposal in the Kidd case is this, assuming just what you say: Here is an article that may be declared contraband in commerce. Assuming that to be true, if the power of Congress is not great enough to say that a contraband article or an article that may be declared contraband does not have attached to it the commerce power when it is made solely for export, how does that fortify the position of one who says that an article which by its nature is not contraband can have the commerce power attached to it during its manufacture, not because it is produced under conditions that affect the health of its prospective consumer, or because it is inherently bad in itself, but because it is produced under an employment contract which is a recognized legal relationship in the State in which it is manufactured?

Now, let me call your attention to the case of Coe *v.* Erroll (116 U. S., 517), where a lumberman cut his logs and floated them down a stream in the State of New Hampshire. They were destined, I think, for the State of Maine. They flowed down the stream on the banks of which they had been cut to the town of Errol, and there they were tied up for some time. There the county undertook to tax them, and the defense was set up that they were commodities intended for shipment and on their way to another State, and that the commerce power attached to them and protected them against taxation, because to impose a tax upon such an article of commerce was to burden that commerce, and therefore regulate it. The Supreme Court on appeal rejected this contention and pointed out that logs had not become articles of commerce; that there was and must be a definite time at which the commerce power as distinguished from the police power, attached to an article, and that, said the court, was when the commodity in question had in its state of origin been committed to a carrier for shipment to its destination in another State. Up to that time it was completely within the control of the State for regulatory purposes, and its status was entirely unaffected by the shipping intention of the producer.

In this branch of the discussion I want to call your attention to another very important question. I know you gentlemen considered it when you had the trade commission bill before you. I remember it was referred to in the very interesting argument then made by the Senator from Ohio—and that is on this proposition. Does the fact that one engages in interstate commerce submit him wholly to the regulating power of commerce, and is there any distinction between such regulatory power over a person, a firm, or corporation? I contend that there is no distinction in the exercise of the commerce power over a person, firm, or corporation engaged in commerce, because a corporation is a person within the meaning of the fourth, fifth, and fourteenth amendments. The only distinction that has ever been made in applying the constitutional guarantees to a corporation as distinguished from a natural person, is that immunity from self-incrimination is a personal right, and an officer of a cor-

poration may claim it for himself but not on behalf of his corporation.

Not only has the Supreme Court never held that because one engages in commerce, even as a carrier, chiefly engaged in commerce between the States, he is submitted wholly to the regulation of Congress, but that court invalidated the first employer's liability act in which counsel for the Government asserted that theory. (Employer's Liability cases, 207 U. S.)

Senator SMITH of South Carolina. While you are on this matter, I would like to know what is your opinion—if this is held constitutional, that the Federal Government has the right to take cognizance of and control the production within a State of an article which may become an article of export, or interstate—as to whether or not it would then have the right to say, for instance, in the cotton fields of the South, where the cotton which is gathered and ginned, which is a process of manufacture—that it may not be exported if certain classes of people are engaged in the picking and ginning of that cotton? Why is that not a parallel to this case?

Mr. EMERY. It seems to me it is exactly parallel. That is exactly why the principle is applied here to a subject matter which excites the sympathy of every well-intentioned man, appeals to one's own most natural human feelings, and confuses one's mind with respect to the effect of the principle of regulation proposed.

Let us take, for instance, this serious question which Senator Smith has raised. Are we to take the position which Mr. Parkinson suggested the other day, that the commerce power can be used to meet every pending question of morals, health, or labor? That Congress is to step back, as is proposed here, into any or every State where marriage or health or factory laws are not up to its standards and adjust them by denying the privilege of intercourse until they are accepted.

Surely there are many more evils that you gentlemen recognize clearly that however impatient we become must be worked out by the States or reached by constitutional amendment. The first, I should say, is the evil of a lack of uniform marriage and divorce laws. Every civilized nation realizes that the marital relation is the very foundation of national morals and well-being, and yet here is a State—South Carolina—which has no divorce laws, and there is the State of Nevada which has many divorce laws. Many of our States decline to recognize divorces obtained in other States and persons divorced in one State remarry but live in immorality when they go to another.

Senator POMERENE. You ought not to refer to Nevada in that way.

Mr. EMERY. Here is a recognized evil. Does any member of this committee think that because it is a recognized evil Congress can set up a standard of divorce and say that for the protection of national morality a person divorced in any State of the Union, for causes other than those declared in those standards, shall not enjoy the facilities of interstate commerce?

Senator POINDEXTER. Is that not just a question of the reasonableness of the regulation? We have set up a statute, the so-called Mann Act, dealing with morality under the interstate-commerce clause. Senator Smith mentioned the power with respect to a similar principle, to exclude cotton ginned under certain conditions. There

again it seems to me to be a question of condition. If it was ginned under such conditions as would generate disease, for instance, or if it was infected cotton, manufactured or ginned under infected or diseased surroundings, and liable to promote disease, Congress could put an embargo on it. We have a question now before Congress, and I have not heard the constitutionality of it questioned, with respect to putting an embargo on arms and ammunition—not to regulate it, but prohibit it.

Mr. EMERY. That is another issue entirely.

Senator POINDEXTER. It comes under the power of commerce to regulate foreign commerce?

Mr. EMERY. Yes; foreign commerce.

Senator POINDEXTER. And it has the same power to regulate interstate commerce.

Mr. EMERY. Well, I must confess that I deny that, Senator. But I do not think it is at issue here. If you will permit me, I want to call your attention to the Employers' Liability case, because of the statement I made, if I get too far from it I shall not be able to connect it with the proposition I laid down.

You will recall that when Congress passed the first employers' liability law it went to the Supreme Court in the Employers' Liability cases (207 U. S., 463). The court said:

> Now, the rule which the statute establishes for the purpose of determining whether all the subjects to which it relates are to be controlled by its provisions, is that anyone who conducts such business be a "common carrier engaged in trade or commerce in the District of Columbia, or in any Territory of the United States, or between the several States."
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> That is, the subjects stated all come within the statute when the individual or corporation is a common carrier who engages in trade or commerce between the States, etc. From this it follows that the statute deals with all the concerns of the individuals or corporations to which it relates if they engage as common carriers in trade or commerce as between the States, etc., and does not confine itself to the interstate-commerce business which may be done by such persons.
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> Stated in another form, the statute is addressed to the individuals or corporations who are engaged in interstate commerce and is not confined solely to regulating the interstate-commerce business which such persons may do—that is, it regulates the persons because they engage in interstate commerce and does not alone regulate the business of interstate commerce.
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> 3. It remains only to consider the contention which we have previously quoted, that the act is constitutional, although it embraces subjects not within the power of Congress to regulate commerce, because one who engages in interstate commerce thereby submits all his business concerns to the regulating power of Congress. To state the proposition is to refute it. It assumes that, because one engages in interstate commerce, he thereby endows Congress with power not delegated to it by the Constitution; in other words, with the right to legislate concerning matters of purely state concern. It rests upon the conception that the Constitution destroyed that freedom of commerce which it was its purpose to preserve, since it treats the right to engage in interstate commerce as a privilege which can not be availed of except upon such conditions as Congress may prescribe, even although the conditions would be otherwise beyond the power of Congress—

That bites into the very heart of this measure—

> It is apparent that if the contention were well founded it would extend the power of Congress to every conceivable subject, however inherently local, would obliterate all the limitations of power imposed by the Constitution, and would destroy the authority of the States as to all conceivable matters which, from the beginning, have been, and must continue to be, under their control as long as the Constitution endures. (pp. 502–503.)

Now, I want to point out to the committee that every article excluded from commerce by Congress has been inherently bad, dangerous, unmerchantable, or not a subject of commerce. The origin and nature of the commerce power and the decisions of the courts thereon are to the effect that the power of Congress as to legitimate commerce is to regulate and not to prohibit or exclude it.

The evil and abuse of child labor lies in its employment in production. It precedes and is unrelated to the transportation in interstate commerce, and the arbitrary declaration of a relationship in production between a person and the article produced and transported can not change the nature of the article or single it out for exclusion from commerce by that fact.

Mr. Parkinson pointed out to you the other day, in the course of his very interesting argument, various articles which Congress had excluded, laying stress, first of all, on wild game. Congress has provided for its transportation in the Lacey Act, and we have also a migratory-bird law, which has not been judicially reviewed as yet and of which nothing can be said.

Senator POINDEXTER. A case is now pending in court, I believe, involving that.

Mr. EMERY. Yes, sir. Let me point out the distinction between all these cases and the pending proposal. It is a very clear one. It was laid down very decisively in the case of Geer *v.* Connecticut (161 U. S., 519). The decision was written by Mr. Justice White. The facts were these: A statute of Connecticut prohibited the transportation of wild game killed in that State to any other State—that is, game lawfully killed—and the Supreme Court held that by its nature wild game was the property in common of the people of each community. That nobody could have any property right in it, except under such conditions as the State permitted, so that it could utterly forbid the killing of game or reducing it to ownership, or could permit anyone to have it in their possession during the open season and make its possession unlawful when the season was closed. The State could, therefore, forbid its transportation to any other State, as a condition that the State could attach to its ownership.

The Lacey Act makes it unlawful for any carrier to receive for transportation any game which has been unlawfully killed in any State, and, of course, that statute rests upon the same principle as the case of Geer *v.* Connecticut. Here Congress excluded from commerce an article which in itself and which by its nature was not the subject matter of commerce. This act was sustained in the case of Rupert *v.* United States (181 Federal).

Now, the right to engage in commerce between the States is the right to do rightful things in that commerce, not to endanger or restrain it, nor the right to use its facilities for immorality or fraud or swindling or to introduce disease or pestilence or contagion, or articles that in their nature are not objects of commerce. In all the long line of decisions in which these subjects have been adjudicated, there have been urged here but perhaps two cases that seem to me to require careful consideration and distinction—one is the case of Champion *v.* Ames (188 U. S., 372), the "Lottery case," upon which very much stress has been laid, and Hoke *v.* United States (227 U. S., 308), known as the "White Slave" case. In all these cases, from the very beginning, the court has always taken the position

that nobody has a right, natural or legal, and that no constitution ever created by man or God guaranteed to any man the right to do a wrongful, an immoral, or an obscene thing, or to introduce disease, contagion, or fraud, or impure or rotten food into anybody's house, much less into another State.

In all the cases interpreting the pure-food law, from the first to the last expression of the Supreme Court of the United States on that subject in the case of the Seven Cases of Eckmans Alterative, decided by Mr. Justice Hughes on the 10th of January, 1916, the court held that articles and commodities under question were not "articles of commerce"; by the common judgment and sense of mankind they were not and are not "merchantable" commodities. They are in themselves inherently bad, rotten, diseased, fraudulent, or illicit, and this court and Congress itself merely recognizes and identifies them for what they are, as everybody else does. It takes judicial notice of the fact of their inherent badness. But they are all bad in themselves and not because they are produced by a Chinaman, or a black man, or a white man, or a man with red hair, or a bald-headed man. They are bad because of their very nature.

The CHAIRMAN. It is now the hour of 12 o'clock and the committee will have to adjourn. Do you care to finish this afternoon?

Mr. EMERY. I shall not take, I think, longer than 15 or 20 minutes.

Senator SMITH of South Carolina. Mr. Emery's argument is very interesting to me, and I would like to be present when he resumes.

(Thereupon the committee took a recess until 4 o'clock p. m.)

AFTER RECESS.

The committee resumed its session, pursuant to the taking of the recess, at 4 o'clock p. m., Senator Francis G. Newlands (chairman) presiding.

The CHAIRMAN. You may go on with your argument now, Mr. Emery.

STATEMENT OF MR. JAMES A. EMERY—Resumed.

Mr. EMERY. If I may be permitted to summarize my discussion of this morning, I predicated our opposition to this measure upon the form in which it was cast, which I thought wider than its express purpose; the rule of evidence which it created, making prima facie evidence of a violation of the act facts not only entirely consistent with the innocence of a shipper but essential to the innocent exercise of his right to manufacture under the laws of the State in which he operated. I further suggested that these provisions gave no protection to but rather encouraged arbitrary arrest and prosecution, as though a citizen were not to be protected from this as a part of due process of law as well as from arbitrary conviction and imprisonment. I called attention to the fact that the penalties incurred by the shipper under the bill were dependent on the volume of his shipments and not upon the number of children employed; that a large manufacturing establishment employing one child incurred infinitely greater penalties than a small establishment operated exclusively by children and with a proportionately smaller number of shipments. I then undertook to assert that the legislative policy proposed would

secure a legal uniformity at the expense of a principle essential to the preservation of national integrity, the operation of a dual form of government in which the national authority operated directly upon the people and not merely upon the States, yet reserved to each of the States complete self-government in its internal and domestic affairs, a unique and essential characteristic of our system.

I objected to the validity of the measure on the ground that it was, by its avowed purpose, nature, and terms, a regulation of production under the guise of a regulation of commerce.

That the commerce power operated upon persons, firms, and corportations, not while engaged in production nor because they engaged in commerce, but applied only to the transaction of the interstate-commerce business of such persons, and that the power of Congress did not attach either to a commodity because it was intended for commerce or to completed articles which were to be shipped in commerce until they were actually delivered to a shipper in the State of origin for transmission to the State of destination. That, further, the power to exclude articles from commerce between the States rested upon an inherent defect in the article itself, its danger to such commerce while in it, or to articles that were not "subjects" of commerce or were immoral or illicit in their nature to persons being transported for an immoral purpose and to the contracts of all persons when made for the purpose of obstructing or regulating that which Congress alone may regulate.

At adjournment I was engaged in discussing the principle of the cases referred to by Mr. Parkinson, such as the Lottery case, the White Slave case, the Pure Food cases, and others predicated upon the same fundamentals, and I had asserted that every article excluded from commerce was unmerchantable, illicit, or not a "subject" of commerce. It seemed, therefore, that the origin and nature of the commerce power and the character of its sustained exercise demonstrate that the power of Congress as to legitimate commerce is to regulate but not to prohibit or exclude. The evil and abuse of child labor lies in its employment in production which precedes and is unrelated to transportation in interstate commerce. The declaration of an arbitrary relationship between production by selected persons and succeeding transportation can not justify singling out such article for exclusion from commerce.

The class of articles upon which the commerce power has been most widely exercised has been misbranded, impure, diseased, poisonous, obscene, or injurious articles. I use "injurious" in the sense of imperiling other articles of commerce in transit, like explosives or loose hay, which expose other freight to destruction by fire. In all these cases the decision of the court supporting the power is predicated upon the inherent nature of the article itself. I can not illustrate this better than by citing two cases. One that of Plumley *v.* Massachusetts (155 U. S., 401), the other that of Schollenberger *v.* Pennsylvania (171 U. S., 1).

In the Plumley case the State of Massachusetts had forbidden by law the sale of misbranded butter and oleomargarine. This case involved a shipment of oleomargarine from another State by the defendant. He was arrested and prosecuted, because the oleomargarine was labeled as butter. The defendant retired behind the commerce clause, claiming it protected him from interference by the

State, and that Massachusetts by her statute was writing a regulation of commerce. But the Supreme Court said, through Mr. Justice Harlan, "No man has a constitutional right to use the facilities of commerce to work a fraud upon a person or a community." Oleomargarine branded as butter was a fraud upon its face.

On the contrary, in the case of Schollenberger *v.* Pennsylvania, oleomargarine labeled as such was shipped into the State of Pennsylvania, and that State, under a statute which forbade the sale of that product, undertook to prevent its delivery in the original package and to punish the person who received it. The United States Supreme Court again pointed out the distinction from the Massachusetts case, saying that oleomargarine is a legitimate and taxed article of commerce, and when labeled as such is not subject to exclusion.

Every case of misbranding is subject to the same principle, because when the article is declared to be that which it is not, it is an endeavor to work a fraud upon the community, which no man has a constitutional right to do. That same principle has been applied from the first case in which it was laid down to the last case in which it has been announced that of the seven cases Eckman's Alterative *v.* United States, decided by Mr. Justice Hughes in January of this year. In this case Eckman's Alterative was represented by a circular in each package shipped to be a "preventive" of pneumonia, and it was stated that it "would cure" and had been known to "cure" tuberculosis. So it was held liable to seizure under the pure food and drugs act on the ground that Congress could prevent the circulation through commerce of an article which in itself was a swindle and a fraud upon the public.

In the Hipolyte Egg case (220 U. S., 45) we have a most striking definition of the power of Congress to prevent the interstate shipment of misbranded, poisonous, fraudulent, defective, and injurious products. In that case the Government undertook by libel to seize a great number of packages of eggs adulterated with boric acid. This was resisted not only on the ground that they were shipped by the manufacturer to himself for use and not sale, but that they had become mingled with the commerce of the State into which they were imported and were beyond the reach of the Federal power.

Mr. Justice McKenna, in writing the decision in that case, exemplified the principle I have endeavored to express. He said:

> We are dealing, it must be remembered, with illicit articles—articles which the law seeks to keep out of commerce because they are debased by adulteration, and which punishes them (if we may so express ourselves) and the shipper of them. There is no denial that such is the purpose of the law, and the limitation of the power directed to such purpose which is urged is that the articles must be apprehended in transit, or before they have become a part of the general mass of property of the State. In other words, the contention attempts to apply to articles of illegitimate commerce the rule which marks the line between the exercise of Federal power and State powers over articles of legitimate commerce. The contention misses the question in the case. Thre is no conflict of national and State jurisdictions over property legally articles of trade. The question here is whether articles which are outlaws of commerce may be seized wherever found; and it certainly will not be contended that they are outside of the jurisdiction of the National Government when they are within the borders of a State.
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> The question in the case is, therefore, What power has the Congress over such articles? Can they escape the consequences of their illegal transportation by being mingled at the place of destination with other property? To give

them such immunity would defeat, in many cases, the provision for their confiscation, and their confiscation or destruction is the especial concern of the law. The power to do so is certainly appropriate to the right to bar them from interstate commerce, and complete this purpose, which is not to prevent merely the physical movement of adulterated articles, but the use of them, or rather to prevent trade in them between the States by denying to them the facilities of interstate commerce. And appropriate means to that end, which we have seen is legitimate, are the seizure and condemnation of the articles at their point of destination in the original, unbroken packages.

Senator CUMMINS. May I interrupt?

Mr. EMERY. Certainly.

Senator CUMMINS. Have you ever examined the power or authority of Congress to regulate the capitalization, we will say, of a State corporation engaged in interstate commerce by prohibiting it from so engaging unless it conformed to certain requirements about capitalization?

Mr. EMERY. In other words, to make its engagement in interstate commerce dependent upon or conform to such license?

Senator CUMMINS. Not necessarily license. It is a privilege, or a right you may call it, of engaging in interstate commerce dependent upon a certain form of organization or certain conditions in organizations. Assuming that case—we have had that question before us a great many times——

Mr. EMERY (interposing). Yes, sir.

Senator CUMMINS (continuing). I wondered whether you would see any parallel between that and the question under consideration.

Mr. EMERY. It seems to me that the answer to that is fully contained in what are known as the Employers' Liability cases (207 U. S., 463), in which the court quite answers your question, if I understand what you mean.

Senator CUMMINS. I might put it another way, so that you may not understand it.

Mr. EMERY. Yes.

Senator CUMMINS. Have we authority to say that a corporation shall not engage in interstate commerce organized under the laws of the State, of course, unless its capital stock was fully paid up?

Mr. EMERY. I should think not, Senator, but if there could be established there a relation essential to the protection of commerce the answer might be yes. But if you undertake to predicate it upon the proposal that because the corporation was engaged in commerce it was therefore subject to regulation as a matter of course, or that the power of Congress over the corporation was greater or different in quality from that which it possessed over a person or a firm or a partnership, I should say no. I should think that the decision in the Employers' Liability cases, to which I have referred—I do not seem to have the quotation with me—completely meets that inquiry, because in that case it was contended that because an interstate carrier was engaged almost exclusively in interstate commerce, therefore that portion of its business which did not relate to interstate commerce was likewise subject to the power of Congress. The court stated it in this way (Employers' Liability cases, 207 U. S., 463):

It remains only to consider the contention which we have previously quoted—that the act is constitutional—although it embraces subjects not within the power of Congress to regulate commerce, because one who engages in interstate commerce thereby submits all its business concerns to the regulating power

of Congress. To state the proposition is to refute it. It assumes that, because one engages in interstate commerce, he thereby endows Congress with power not delegated to it by the Constitution; in other words, with the right to legislate concerning matters of purely state concern. It rests upon the conception that the Constitution destroyed that freedom of commerce which it was its purpose to preserve, since it treats the right to engage in interstate commerce as a privilege which can not be availed of except upon such conditions as Congress may prescribe, even though the conditions would be otherwise beyond the power of Congress. It is apparent that if the contention were well founded it would extend the power of Congress to every conceivable subject, however inherently local, would obliterate all the limitations of power imposed by the Constitution, and would destroy the authority of the States as to all conceivable matters, which from the beginning have been and must continue to be under their control as long as the Constitution endures.

Senator CUMMINS. What is the relation you had in mind when you suggested that if a relation between prohibition and interstate commerce were established then such a law might be constitutional?

Mr. EMERY. It is this, Senator, and it is the kind of cases that support all the decisions under the Sherman Act applying to prohibition of certain contracts and certain operations effecting an undue restraint or monopoly of commerce. Thus we have Addystone Pipe & Steel case, 175 U. S., in which the court points out that Congress possesses the power to prohibit contracts made by persons, firms, or corporations, the necessary or intended effect of which is to regulate commerce. In other words, Congress having the exclusive power to regulate commerce or the right to prescribe the rules by which intercourse shall be governed, has the right to protect that intercourse from regulation or trespass by another, whether it be a State or a private citizen.

Senator LEWIS. May I interrupt for a question?

Mr. EMERY. Cetrainly.

Senator LEWIS. Senator Cummins had the same thought in his mind as I have, but I do not think he quite expressed it. A circuit court of the United States down in Tennessee the other day held as unconstitutional an act of Congress, which we passed and which was presented by Senator Smith of South Carolina, in which case the court went so far as to hold that because Congress had assumed, among other things—they spoke about legislation carrying appropriations, originating in the Senate, being a violation of the Constitution——

Senator ROBINSON (interposing). And legislation providing for the raising of revenue.

Senator LEWIS. Yes; they had that in there. Then the opinion proceeds to say, among other things, that Congress, in attempting to legislate upon a subject which in itself is executed solely and wholly within a State where it is undertaken, such subject is not within the power of Congress. Have you noticed the reason upon which they based that decision?

Mr. EMERY. I must confess I have not seen the opinion, Senator; so I hesitate to discuss the matter.

Senator LEWIS. It has not been brought to your attention?

Mr. EMERY. No, sir.

Senator ROBINSON. That provided for a tax, and dealt with the subject of cotton futures under the taxing power; and if I understand the decision correctly, it held that since the Constitution provides that bills for raising revenues must originate in the House of

Representatives, and this bill originated in the Senate, it was in violation of that provision of the Constitution.

Senator LEWIS. That is one feature, Senator, in which I am not particularly interested. It was the other. If the doctrine announced by that court is correct, Senator Cummins's suggestion is very appropriate. If that be truly the law then Congress can never do anything connected with interstate commerce where the act itself could be completed within a State. Here is a serious question, according to my way of thinking.

Senator ROBINSON. May I interrupt for a question, Senator?

Senator LEWIS. Certainly.

Senator ROBINSON. This bill provides that before goods can be shipped out of one State into another the shipper must obtain a certificate made in that State that the goods were not made by child labor and that child labor was not employed in their manufacture. Am I right about that?

Mr. EMERY. It provides that it shall be unlawful for any producer, manufacturer, or dealer to ship or deliver for shipment in interstate commerce the product of any mine or quarry situated in any State, which has been produced in whole or in part by the labor of children under the age of 16 years, or the product of any mill, cannery, workshop, factory, or manufacturing establishment in the United States which has been produced in whole or in part by the labor of children under the age of 14 years, or by the labor of children between the ages of 14 years and 16 years who work more than 8 hours in any one day, or more than 6 days in any one week, or after the hour of 7 o'clock p. m., or before the hour of 7 o'clock a. m.

Senator LEWIS. Have you not a provision in this law that a certificate must be required before the goods are shipped?

Mr. EMERY. Not in this measure. We are discussing the bill as passed by the House.

Senator LEWIS. That is the one I am referring to. I am discussing a thing which does not exist. I apologize.

Senator CUMMINS. You say it is your opinion that Congress could not require that corporations engaged in interstate commerce shall be organized under a law of the United States?

Mr. EMERY. I do not see at the moment, Senator, the relation between the commerce to be regulated and the purpose stated.

Senator ROBINSON. Will you pardon me for going back to the question of Senator Lewis?

Mr. EMERY. Certainly.

Senator ROBINSON. I think he had in mind the proviso in line 24, at the bottom of page 3.

Mr. EMERY. With respect to guarantee?

Senator ROBINSON. Yes.

Mr. EMERY. That is another matter.

Senator ROBINSON. It has been urged that we ought to pass a law providing for no incorporation except under a Federal law, and that we could make it exclusive, compulsory.

Mr. EMERY. There are several bills of that character, Senator. I have heard them argued by very distinguished authorities with great interest; but I believe some of them went off on another phase

of the law. I confess I do not see the parity between that and the provisions under discussion.

Senator ROBINSON. They are engaged in interstate commerce?

Mr. EMERY. Yes; but I do not see the relation. I do not know of any distinction made in any decision of the United States courts with reference to the right of corporations, persons, firms, and partnerships to engage in interstate commerce—that is, with respect to constitutional guarantees—which holds that such guarantees apply only to natural persons. It is in the Constitution, and it has always been recognized by the courts, that there is no distinction between a natural person and a corporation, except the distinction with regard to the immunity clause.

Senator ROBINSON. I am not making that distinction. If they chose that form of incorporation, then they must incorporate under the Federal statute, if one existed. Of course, we have none now.

Mr. EMERY. No. I think that is answered by the statement in the employers' liability cases, where it was said that to engage in interstate commerce was not a privilege which depended upon Congress, and which Congress could arbitrarily condition.

Senator ROBINSON. Your proposition is that if the goods are themselves wholesome and sound, and that their use shall be wholesome, we can not go back of that and look into the conditions of production or by whom they are produced?

Mr. EMERY. I would not say you could not go back of that and inquire into the conditions of production or by whom they are produced, because you do go back in the case of misbranded or adulterated goods. But in this case you go back to examine the character of employment, the relationship existing between the manufacturer of the goods and those whom he hires to manufacture them. The employment contract, the relationship of employment, created and existing wholly within the territory of a State, is within the jurisdiction of that State under its police power.

Senator ROBINSON. Still, misbranded goods do not make an exception from the suggestion I have just made. I am assuming now that the goods when offered for shipment are sound, wholesome, not fraudulent in any form. I understand your position to be that the person who owns them has a right that can not be interfered with to put them in the course of an interstate shipment and that we can not go further back and inquire how or by whom they were produced.

Mr. EMERY. I do not believe it to be within the power of Congress to exclude wholesome meat or wholesome bread from interstate carriage between the States, because there was a child 10 years old in the kitchen where the bread was baked or where the meat was cooked.

Senator ROBINSON. I was trying to get parallels, if I could.

Mr. EMERY. Assuming, as I do, under the decisions, that the inhibitions and the guarantees of the Constitution apply with equal force to corporations as they do to persons, then I know of nothing that would support a contention that would make a condition of engaging in commerce that the capital stock of the corporation had to be fully paid up, it being a State corporation.

Now, I beg to turn your attention to two cases which are greatly relied upon in argument to support the validity of this proposal—the lottery case, and the Hoke case, commonly known as the white-

slave case. The lottery case, as you gentlemen well know, was the subject of a strong dissent, chiefly directed to a disagreement over whether or not a lottery ticket was an article of commerce, or whether it ought to be regarded as within the terms of those contracts which are held not subjects of commerce, like insurance policies or other contracts which merely establish a personal relation between parties thereto and were not, in themselves, articles of commerce. The court held that when a lottery ticket was transported by an independent carrier it was an article of commerce, but the court very carefully limits its decision in the case.

In sustaining the exclusion of lottery tickets from interstate commerce by the act of 1895 the court illustrates the exercise of the power of prohibition by appeal, first of all, to the diseased cattle act of 1884, which forbids the transportation of live stock affected with an infectious or communicable disease and by appeal to the decisions affirming the Sherman Act, notably the Addystone Pipe & Steel Co. *v.* United States (175 U. S., 211), in which that court sustained the power of Congress to enact a law "prohibiting citizens from entering into those private contracts which directly and substantially, and not merely indirectly, remotely, incidentally, and collaterally, regulate to a greater or less degree commerce among the States."

The court denied that this decision led "necessarily to the conclusion that Congress may arbitrarily exclude from commerce among the States any article or commodity or thing, of whatever kind or nature or however useful or valuable, which it may choose, no matter with what motive, to declare shall not be carried from one State to another."

The court further says:

> We may, however, repeat in this connection what the court has heretofore said, that the power of Congress to regulate commerce among the States, although plenary, can not be deemed arbitrary, since it is subject to such limitations or restrictions as are prescribed by the Constitution. This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument. It would not be difficult to imagine legislation that would be justly liable to such an objection as that stated and be hostile to the objects for the accomplishment of which Congress was invested with the general power to regulate commerce among the several States.

Senator CUMMINS. If you can imagine a state of society in which gambling was not against public policy, with the Constitution as it is now, would you have expected a different decision in the lottery case?

Mr. EMERY. I think in that case that Congress and the courts do not create but recognizes an inherent quality in the article which expresses the common judgment of the Nation.

Senator CUMMINS. Is it not true that it goes further, and that it recognizes an inherent immorality in the business of gambling?

Mr. EMERY. Lotteries had come into the Supreme Court of the United States 70 or 80 years before, and the courts had refused to recognize the validity of contracts predicated upon them or to protect such contracts, and this was but a last step in regulating the traffic in lottery tickets, a thing bad in itself, "a traffic in which," the court said, "no man may engage as a matter of right."

Senator CUMMINS. If child labor, the question mentioned in this bill, were generally recognized to be immoral, as gambling is, would you not consider them parallel?

Mr. EMERY. I would consider the regulation of the transportation of the child for that purpose or the regulation of the use of children in interstate commerce. I mean on any common carrier, like a messenger boy working for a telegraph or telephone company, where the carrier was within the clear jurisdiction of Congress.

Senator LEWIS. I argued the lottery case in the lower court and tried during that argument—in the higher court I tried to do the same thing—to get the court to adopt a theory of a lottery ticket the same as that which applies to a policy of insurance, they having previously held that a policy of insurance was not an article of interstate commerce. The man had sent a ticket out and sent the money, actually in dollars and cents, which was the result of the lottery drawing; and the question was whether or not that could be inhibited by the United States, more on the ground that it was passing between States as the result of a thing that was contrary to good morals.

The question as to this bill is: Is it within the power of Congress to say that child labor is immoral merely because a thing is done by a child? Can Congress say that that thing per se is immoral when it violates any of the established doctrines which define it as immorality?

Mr. EMERY. To what would you refer the exercise of that power?

Senator LEWIS. For instance, is it right, in your opinion, to say that child labor is immoral or illegal in itself, and, being such, that we could prohibit the results of it?

Mr. EMERY. Congress, if it did that, would repudiate the position it took in enacting legislation in the District of Columbia for the regulation of child labor.

I called attention this morning to the fact that I did not think that anyone contends that the employment of child labor per se is an evil. It is argued that the employment of child labor is an evil if such employment injures the health of the child or prevents him from securing an education, or something of that sort. By excepting agricultural occupations this bill argues that a child working on a farm is not injured, because he is working at an occupation that takes him out of doors and probably is calculated to better his health, rather than injure it. So this bill approves child work on the farm even under the age of 14 years, or if of the age of 14 and not over 16 it believes he may work over eight hours a day and not be injured.

Senator ROBINSON. If, for instance, the State of South Carolina had passed laws forbidding child labor in all cases under the age of 14, and for more than eight hours in any one day of children between the ages of 14 and 16, would this act be valid? Suppose that the State of South Carolina had heretofore passed a labor law forbidding any child under the age of 14 to be employed, or any child between the ages of 14 and 16 to be employed more than eight hours in any one day, would Congress have the power to pass this act?

Mr. EMERY. If every State had?

Senator ROBINSON. No; if the State of South Carolina had.

Mr. EMERY. You mean, if the act in South Carolina was in the identical terms with the act proposed here, would that affect the validity of the exercise of the power of Congress?

Senator ROBINSON. Yes.

Mr. EMERY. I do not think so, for the reason that the State would have no less power to change its legislation than to enact it. If any one of the States adopted a rule with respect to marriage and divorce, and if Congress adopted the same rule and provided that persons who are divorced from the marital relations by any other standard could not ship their products—their children, in other words—in interstate commerce as passengers, would the congressional provision be strengthened by that fact? If a rule of commerce applied to only one state and not to other states, it seems to me that it would be invalid for other reasons; that is, it would undertake to discriminate between States.

Senator ROBINSON. That is a very proper question, of course. In order to eliminate that question, suppose that every State had passed laws forbidding child labor—forbidding the employment of child labor under the age of 14 years and the employment of children between the ages of 14 and 16 for more than eight hours in any one day; could Congress then, under those conditions, pass this act?

Mr. EMERY. If every State had laws like that?

Senator ROBINSON. Yes; every State. Could Congress then pass this act, in your opinion?

Mr. EMERY. I do not think so, because I do not see how that could change the power of Congress at all.

To return to the discussion of the Lottery case, and I want to call your attention to the language of the majority of the court in response to the assertion that the conclusion there reached meant that Congress could exclude any commodity from commerce:

> We may, however, repeat, in this connection, what the court has before said, that the power of Congress to regulate commerce among the States, although plenary, can not be deemed arbitrary, since it is subject to such limitations or restrictions as are prescribed by the Constitution. This power, therefore, may not be exercised so as to infringe rights secured or protected by that instrument. It would not be difficult to imagine legislation that would be justly liable to such an objection as that stated and be hostile to the objects for the accomplishment of which Congress was invested with the general power to regulate commerce among the several States.

As to the Hoke case, the white-slave case, you will recollect that the proposition presented and sustained in Justice McKenna's opinion was the power of Congress to prevent or forbid the transportation of a person from one State to another for immoral purposes or to procure their transportation for that purpose. The court says:

> What the act condemns is the transportation obtained or aided, or transportation induced, in interstate commerce, for immoral purposes.

No man has the right to transport a human being for immoral purposes. That is admitted. It is something inherently bad in itself, because the persons may be viewed in two ways, either from the purpose for which they are transported, or for what they are in themselves a commodity of—immorality.

I do not want to call the attention of the committee to too many of these cases, but I want to mention a further point in relation to them. Mr. Parkinson during his argument again and again reiterated that Congress possesses a national police power to protect

public morality, public health, and public morals. That is true, subject to this limitation. I do not want to say it has that power, because the courts have always said substantially that Congress possesses no police power as such, but what they have said very clearly, which marks the distinction between Mr. Parkinson's declaration and the fact, is that a regulation of commerce is not invalid, because it partakes of the "quality" of police power. A "police quality" is generally applicable to all these exclusions from commerce to which I have called the committee's attention.

I desire also to take marked exception to the frequent assertion in the course of this argument that the exercise of commerce power is limited only by the fifth amendment. According to the circumstances of the regulation proposed, it would be limited by many other provisions of the Constitution, because, taking it as a whole, the Constitution is a remarkably prohibitive document. There are 115 negations in that instrument as against 79 affirmative grants of power.

Section 8, paragraph 3, of the Constitution delegates to Congress the power to regulate commerce with foreign nations and among the several States and with the Indian tribes.

Immediately thereafter, in section 9, paragraph 5, it is provided that no tax or duty shall be laid on articles exported from any State. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another. That is a clear inhibition of exercise of commerce power.

Article IV provides that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by affirmation, and particularly describing the place to be searched and the persons or things to be seized.

This provision appears to modify the use of the commerce power, as indicated notably in a case with which you are undoubtedly familiar, that of Harriman *v.* The Interstate Commerce Commission (211 U. S.); also the case of Hale *v.* Hinkel (201 U. S.).

Next there is the well-known provision of Article V of the Constitution, which provides that—

> No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law.

This article, which has been frequently referred to, lays its inhibition upon Congress as the fourteenth amendment does upon State legislatures. It also provides that no person shall be compelled to testify against himself in any criminal case; and if Congress undertook to require such a condition in a regulation of commerce it would run up against this prohibition.

There is also this further inhibition which is the essential source of distinction between State and Federal authority. That is Article X of the Constitution, which provides that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

All the powers of Congress are derived from delegated authority, and they are not defined, but enumerated powers. Every power not

so expressly delegated is reserved either to the States or to the people themselves. There has been no partitioning out of all the legislative power between the States and the Nation as was suggested here, because there are many powers that could be granted, but which the people have never delegated, although from time to time they do delegate additional powers, of which a recent instance is that of the income tax amendment. We amend the Constitution of the United States from time to time, and we also amend our State constitutions from time to time; but the sovereign undelegated power is in the people themselves.

The argument for this matter gains nothing by asserting that there is a great national evil to be regulated. Granting that there is great evil to be removed or regulated, the power to meet it must be expressly found in order that it may be authoritatively exercised. From these considerations and cases I desire now to present we submit that any rule prescribed for the regulation of commerce must not be arbitrary, must have some real and substantial relation with the commerce to be regulated, and must not conflict with other prohibitions or guaranties of the Constitution. There is no such real and substantial relation between the shipment of a commodity in commerce and the conditions governing the employment of children in an establishment in which it is produced. Such a rule, moreover, is in conflict with Article X of the Constitution of the United States.

It was said, in the course of proponent's argument, and it was reverted to by members of the committee, that there is a vast power in the nature of police authority that can be exercised by the Federal Government through its legislative department to meet national evils. It may not be expressly found in the various articles and grants of power in the Constitution itself, but in the nature of things it must reside somewhere for the protection of national morals, national health, national safety, and it can be referred to the commerce power. I call your attention to the fact that that proposition has been the express subject of a most elaborate character argument in the Supreme Court of the United States, because it was asserted very strongly by the Government in the famous case of Kansas *v.* Colorado. In disposing of that case the court fully met the contention that has been made here. The Government's counsel insisted that all legislative power must be vested in either the State or the National Government; no legislative powers belong to a State government other than those which affect solely the internal affairs of that State; consequently all powers which are national in their scope must be found vested in the Congress of the United States.

In that case, as you gentlemen will remember, there was a question as to whether the State of Kansas or the State of Colorado was entitled to the flow of the waters of the Arkansas River or whether it was the Federal Government which was entitled to fix the conditions under which the flow of that river was to be had.

The court said:

> But the proposition that there are legislative powers affecting the Nation as a whole which belong to, although not expressed in, the grant of powers is in direct conflict with the doctrine that this is a Government of enumerated powers. That this is such a Government clearly appears from the Constitution, independently of the amendments, for otherwise there would be an instrument granting certain specified things made operative to grant other and dis-

tinct things. This natural construction of the original body of the Constitution is made absolutely certain by the tenth amendment. This amendment, which was seemingly adopted with prescience of just such contention as the present, disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which have not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if, in the future, further powers seemed necessary, they should be granted by the people in the manner they had provided for amending that act. It reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." The argument of counsel ignores the principal factor in this article, to wit, "the people." Its principal purpose was not the distribution of power between the United States and the States, but a reservation to the people of all powers not granted. The preamble of the Constitution declares who framed it—"we, the people of the United States," not the people of one State, but the people of all the States—and article 10 reserves to the people of all the States the powers not delegated to the United States. The powers affecting the internal affairs of the States not granted to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, and all powers of a national character which are not delegated to the National Government by the Constitution are reserved to the people of the United States. The people who adopted the Constitution knew that in the nature of things they could not foresee all the questions which might arise in the future, all the circumstances which might call for the exercise of further national powers than those granted to the United States, and, after making provision for an amendment to the Constitution, by which any needed additional powers would be granted, they reserved to themselves all powers not so delegated. This article 10 is not to be shorn of its meaning by any narrow or technical construction, but is to be considered fairly and liberally so as to give effect to its scope and meaning. (Kansas *v.* Colorado, 206 U. S., 90.)

In the course of the argument made in support of this bill much time was spent in drawing distinctions between intrastate and interstate commerce. We insist the issue is broader; it is a distinction between the power under which manufacture and production shall be regulated and that under which the rule for intercourse shall be made.

In the nature of things, if a rule is to be prescribed, it must have a clear relation, a real and substantial relation, to the commerce which its proposes to regulate. You can not make anything a regulation of commerce by calling it such. It must be in its nature, on its face, a regulation of commerce. That is the point brought out in case of Adair *v.* United States (208 U. S., 161), a prosecution brought under the so-called Erdman Act, which provided among other things that no common carrier should discharge or threaten to discharge any employee of the carrier because of his membership in a labor organization.

The court decided two things. First, that the provision was repugnant to the provisions of the fifth amendment, because it understood to deprive the employer or his agent of what was at once a personal or property right, the right to create, and the right to terminate a relation of employment with another; and secondly, it was not a "regulation" of commerce.

The court said:

Manifestly, any rule prescribed for the conduct of interstate commerce, in order to be within the competency of Congress under its power to regulate commerce among the States, must have some real or substantial relation to or connection with the commerce regulated. But what possible legal or logical connection is there between an employee's membership in a labor organization and the carrying on of interstate commerce? Such relation to a labor organiza-

tion can have in itself and in the eye of the law no bearing upon the commerce with which the employee is connected by his labor and services. * * * It results, on the whole case, that the provision of the statute under which the defendant was convicted must be held to be repugnant to the fifth amendment and as not embraced by nor within the power of Congress to regulate interstate commerce, but under the guise of regulating interstate commerce and as applied to this case it arbitrarily sanctions an illegal invasion of the personal liberty as well as the right of property of the defendant Adair.

This case was reviewed again in Coppage *v.* Kansas (236 U. S.), although there was before the court a State statute and not an act of Congress. I call that case to your attention to observe the rule of construction laid down. It is most pertinent to this bill and is first well stated in Lochner *v.* New York (198 U. S., 45). The case of Lochner *v.* New York involved the so-called Baker's 10-hour law. The question was whether or not it was a "health law," and the court held it was not, saying:

We are justified in saying so, when from the character of the law and the subject upon which it legislates, it is apparent that the public health or welfare bears but the most remote relation to the law. The purpose of the statute must be determined from the natural and legal effect of the language employed; and whether it is or is not repugnant to the Constitution of the United States must be determined from the natural effects of such statutes when put into operation, and not from their proclaimed purpose.

Again said the court in Coppage *v.* Kansas (236 U. S.), page 1, in reference to the construction to be placed upon a Kansas statute, which was entitled "An act to provide a penalty for coercing or influencing or making demands upon or requirements of employees, servants, laborers, and persons seeking employment," the question being whether or not the thing which was done was "coercion":

When a party appeals to this court for the protection of rights secured to him by the Federal Constitution, the decision is not to depend upon the form of the State law, or even upon its declared purpose, but rather upon its operation and effect, as applied and enforced by the State; and upon these matters this court can not, in the proper performance of its duty, yield its judgment to that of the State court.

After citing cases, the court says further:

Now, it seems to us clear that a statutory provision which is not a legitimate police regulation can not be made such by being placed in the same act with the police regulation or being enacted under a title that declares the purpose which would be the proper object for the exercise of that power.

Mr. Justice Grier said, in the Passenger cases (7 How., 458), that "the true character of an act of legislation can not be changed by its collocation," and that is most pertinent here.

The question of whether or not this bill proposes a regulation of commerce or whether it proposes a regulation of employment entirely within the jurisdiction of the State where the parties are engaged in production, is to be determined, not by a declaration in its title that it is a regulation of commerce, but by its words, by its legal effect, and by its practical operation when it becomes a statute. It is plain that its purpose is to prevent the employment of children within the age limit fixed in this bill; and the means by which that object is to be attained are, I submit, not within the power of Congress as a regulation of commerce.

I think the committee will admit that the State can not surrender its right to regulate domestic affairs except where there is concurrent jurisdiction any more than Congress can grant a State the right

to enter its domain and legislate there. That would be amending the Constitution by an unconstitutional method. The proposition then is, apart from its relation to other prohibitions of the Constitution, Is this a regulation of commerce?

Now, I have undertaken to point out that in all the cases in which an article has been excluded from commerce it has been excluded because of something inherently bad in itself. Now, here is a bill that applies to every product in this country that is now manufactured, and declares the inherent nature of every such product is to be changed by its contact with a child. Everything in the way of food, everything in the way of manufactured articles of every kind, every product of our factories and other producing establishments is to have its character stamped upon it in interstate commerce, not by what it is in itself but by the fact of whether or not among hundreds of employees one child within a forbidden age is employed in the establishment in which it is produced.

Can Congress by legislative magic change the inherent nature of an article by associating it with the conditions of employment under which it is produced? Can Congress deny transportation to a child whose father was a convict or whose mother was a prostitute, on the ground that it was produced under conditions of immorality? Can it deny interstate transportation to either party or to the children of a marriage either of the parties to which had been previously divorced contrary to a standard established by Congress for the purpose of protecting national morals in the marital relation? Can Congress establish for every State in the Union factory laws, inspection laws, hours of labor laws, minimum wage laws, efficiency methods in production, literacy tests for alien employees, all forms of admittedly local regulation, by denying the facilities of interstate commerce to commodities not produced under its standards?

It is not enough to say that this power of Congress must depend upon so changeable a thing as popular opinion respecting the subject matter of regulation, because it has been said by a great Justice, now dead, Mr. Justice Storey:

> The Constitution speaks not only in the same words, but with the same meaning and intent with which it spoke when it came from the hands of its framers and was voted on and adopted by the people of the United States. Any other rule of construction would abrogate the judicial character of this court, and make it the mere reflex of the popular opinion or passion of the day. (19 Howard, 393).

Senator CUMMINS. That is a little in conflict with some of the decisions of the Supreme Court. For instance, take intoxicating liquors. The Supreme Court once said, in regard to the law regulating intoxicating liquors—I believe this was the law of a State—that at the time intoxicating liquors were a legitimate subject of commerce, and indicated very clearly that its transportation from one State to another could not be prohibited even by Congress; but it said, as I remember it—I have not read the decisions for a long time—that if there came a time when intoxicating liquors were looked upon generally, universally, as bad by the civilized sense of mankind, and condemned, as the lottery business had been condemned, that, then, intoxicating liquors should be outlawed, and that it could be provided that it would not be transported from one State to another. So public opinion does necessarily change the complexion and meaning of the Constitution of the United States.

Mr. EMERY. That is judicial recognition of public judgment.

Senator CUMMINS. Congress has by its word declared the public sense in that way. It has to be an evolution of the people, and it is through their organized judgment, if you please, that the status is determined.

Mr. EMERY. The distinction there is that you are looking squarely into the nature, character and inherent essence of the article which is the subject of judgment.

Senator CUMMINS. I do not suggest that as a parallel case, but only suggest it as being a very obvious conflict with the decisions you have just read from, by the Supreme Court.

Mr. EMERY. I do not think it is in conflict when it is understood that so far as the powers of Congress are concerned they can not be increased or changed in nature by the words of men. In other words, the powers of our Government are not to be changed in their nature by passing expressions of public opinion.

Senator CUMMINS. I understand that, of course.

Mr. EMERY. Yes. Now, it is said here that the States are unable to protect themselves against the evils of child labor or against combinations becoming the users of child labor, and that, therefore, is a reason for the enactment of this legislation, for the evil is one that the Nation alone can reach.

Now, so far as the users of child labor are concerned, they can be reached in each of the States if the different States desire to reach them. But the trouble is that there is not everywhere apparently public opinion to demand such action in the local communities. If there were such public opinion, then, I say, steps would be taken to meet the situation locally. The reason for that must be that local opinion knows its own conditions. It can not be possible that any State of the Union is supporting conditions that are so revolting that they offend the moral sense of the Nation.

But if there is anything that is produced in any State in this Union that is of a character to affect the morals or the health or the welfare of the people of any other State, the people of such State can utterly close their markets to it. They can utterly forbid its retail sale, as they have forbidden the retail sale of intoxicating liquors. There is not a State that can not forbid the retail sale of products of child labor, if that is something within the police power of the State. The reason why it is not attempted must be because the subject is not a valid exercise of the police power of the State. If that is so, then it is not a subject within the commerce power of Congress. There can not be two rules in regard to that. The Supreme Court can not uphold the exercise of the commerce power for the purpose of excluding from interstate commerce a commodity on account of the immortlity which it produces or generates unless the power when exercised by and within a State could be sustained for the same reason. If gentlemen fear to go into a State tribunal and submit this principle to its judgment, then, for the same reason, it can not be sustained as a protection of public morals within the domain of interstate commerce.

Now, gentlemen, thanks to your courtesy, I have reached the conclusion of what I have to say. I now desire to sum up briefly what I have endeavored to present to the committee, and that is: First, that the objection urged to this measure is an objection directed to

the policy upon which the Nation is asked to embark by the proponents of this bill. We believe it is one that seriously menaces the integrity, the organic structure, of this Nation by authorizing an intrusion by Congress upon the reserved powers of the State, that deprives the individuals living in those States of the right of self-government in determining the domestic conditions under which they shall live and move and have their being—one of the most essential principles of American Government for which our fathers from time immemorial have contended.

In the second place, the form of the bill is bad. It is poorly drawn. It is ambiguous. It is far wider in its terms than in the declared purposes for which it is proposed. The rule of evidence which it offers is a rule capable of and likely to tempt arbitrary use. It protects nobody, not even dealers possessed of the guaranty offered in this bill, from arrest or prosecution, but only from conviction when they have shown by affirmative defense that they have not employed children under the conditions prohibited.

The measure is invalid because, under the guise of regulating commerce, it is intended to and does regulate conditions of manufacture in every State of the Union, and manufacture and commerce are in their nature two essentially distinct and separate things ruled by separate jurisdictions. It was the manifest intention of the framers of the Constitution and of the people of the United States to confer upon Congress the power to regulate intercourse between the States, not the power to regulate production in each State of the American Union. We further contend that the mere intention to ship a commodity in interstate commerce, or engaging in interstate commerce or production for that commerce, does not bring the production or the person so engaged within the commerce power. For the commerce power lays its hand upon the article so produced only when it had been offered to an interstate carrier in the State of its origin for shipment to the State of its destination. Commerce begins where manufacture ends. By its nature it can not have being until the operations of production have been concluded.

We contend that exclusion from commerce has never been applied nor contemplated by the Congress of the United States nor sustained by the courts, with respect to any article that was not bad in itself, nor to any acts of individuals that did not threaten the safety or the freedom of that commerce. We acknowledge that in protecting it Congress may remove any obstruction to its flow, moral, physical, or economic; a mob, a monopoly, or a sand bank. We hold that any rule prescribed for the government of intercourse between the States must sustain a real and substantial relation to the commerce which it undertakes to regulate; and that this proposal is characterized by no real and substantial relation of that kind. The rules of construction consistently applied by the courts of our country will determine whether or not a proposal to regulate commerce is such, not from its declared purpose, but by the language in which it is expressed, its legal effect, and its practical operation in the everyday affairs of the commercial world which it is to govern. This bill, measured by that standard, is not a valid regulation of commerce, but a prohibited regulation of production.

Let it be assumed, as is here declared, that the improper employment of child labor, is an evil that Congress should exert whatever powers it possesses for the purpose of preventing. I agree that it is the duty of the National Government to undertake to protect the child within its jurisdiction against exploitation in industry; but it remains ridiculous to say that because a purpose is laudable you are to usurp power to embark upon it, and imperil the true relations between the States and the Nation. To hold that is to assert that any laudable purpose justifies the obliteration of constitutional restraint for the purpose of accomplishing a result desirable in itself, irrespective of the invalid means which may be employed for that end.

Finally, Mr. Chairman, this proposal is so revolutionary in its terms, both as a principle of law and as a policy of regulation that it not only is capable of leading, but it unquestionably will lead, to the presentation of proposals equally justified, which will, by their necessary operation, deprive the States of their essential police powers and reduce them to a condition of legislative impotence. For, if Congress can say that no commodity shall move in interstate commerce because it objects to the character of the employment relations existing between the manufacturer who produced it and one child in his entire establishment, then it can say with equal right and it will be asked to say that no commodity shall be produced for shipment in interstate commerce that is the product in whole or in part of adult labor, man or woman, employed more than eight hours in any calendar day or more than 48 hours in any one week, because the necessities of the Nation for adequate defense require that every man and woman shall conserve their powers and thus insure the life, health, and strength, not only of possible military defenders, but of the parents of the Americans of the future. More than that, whenever, in the opinion of a number of nonresidents, any State fails to protect the morals or health of welfare of its people Congress will be asked to prevent the interstate shipment of commodities produced under the objectionable conditions existing in that State. Such a policy, gentlemen, will turn over the regulation of the internal affairs of all the States with respect to morals and health and welfare, and not to the judgment of local men who live in the community and understand its domestic life and conditions, but to a majority in Congress who, by the very nature of things, can not and will not know or learn the peculiar physical and economic conditions that constitute the individual characteristics of each State.

It seems to me that a proposal of such overwhelming legal and social importance, especially in view of the fact that it has once been disapproved by the Judiciary Committee of the House, that it has been debated in the Senate and disapproved by the ablest lawyers of that day—is deserving of the attention of the great Judicial Committee of the Senate. So, with all deference, I venture to suggest that in view of the nature and importance of the bill, and without any reflection whatever upon the distinguished lawyers who sit around this table, it should have the judgment of the formal law body of the Senate, that authoritative committee upon whose legal judgment the Senate acts, before you ultimately determine the legal quality of this proposal.

I thank you.

Mr. McKELWAY. I would like to insert a brief by Prof. Parkinson discussing the bill itself, including the prima facie proof section.

The CHAIRMAN. Very well.

(The brief referred to is as follows:)

SUMMARY OF PROVISIONS OF KEATING-OWEN BILL TO EXCLUDE FROM INTERSTATE COMMERCE PRODUCTS OF CHILD LABOR.

By THOMAS I. PARKINSON.

STANDARDS OF FEDERAL CHILD LABOR LEGISLATION.

Following the decision of the child-labor committee that Federal legislation to suppress child labor in the mining and manufacturing establishments of this country was desirable, the committee was confronted with the necessity of determining the exact nature of the standards which should be written into such legislation. The first essential of such legislation was the determination of the ages under which and the hours within or during which children should not be employed. Thereafter it had to be determined precisely what establishments or places of industry or employment the standards should affect. These standards were fixed by the committee as follows:

(1) Children under 16 not to be employed in mines or quarries.

(2) Children under 14 not to be employed in mills, canneries, workshops, factories, or manufacturing establishments.

(3) Children between the ages of 14 and 16 not to be employed in mills, canneries, workshops, factories, or manufacturing establishments more than eight hours a day, or more than six days a week, or before 7 a. m. or after 7 p. m.

These standards are in accord with, and in many cases lower than, the standards established in States where effective child-labor legislation is in force.

GENERAL PURPOSE OF FEDERAL CHILD-LABOR LEGISLATION.

This legislation seeks to discourage the employment of children under the ages prescribed or within the prescribed hours in the mining and manufacturing establishments of the country. On the assumption that Congress can not directly prohibit such employment the proposed bill seeks to accomplish this purpose indirectly. Indirection in the accomplishment of its purpose is not unusual in Federal legislation. Examination of recent bills pendng before or enacted by Congress suggest three possible methods by which the purpose of this and similar legislation may be accomplished by congressional action:

(1) Taxation of etablishments using child labor at a rate making the use of such labor not only not profitable but possibly costly to its employers. This is the method adopted by Congress in the Esch match bill, levying a prohibitive tax on matches manufactured from poisonous phosphorus. It is also the method more recently used by Congress to tax out of existence undesirable future contracts for the sale of cotton. Perhaps the most important exercise of the taxing power for such a purpose is represented by the oleomargarine-tax law.

(2) The prohibition of the use of the United States mails by employers of children under the specified ages or within the prescribed hours. This method of accomplishing such a purpose as that aimed at in the proposed legislation has never been incorporated in an Act of Congress. Such a provision was contained in the original cotton-futures bill as it passed the Senate, but in the act finally adopted this principle was abandoned in favor of the taxing power.

(3) The prohibition of the use of the channels of interstate commerce as a means of distributing the products of the labor of children under the ages or between the hours specified.

In choosing between these available methods it must be remembered that each is indirect and that the test of desirability of either method is, on the one hand, its constitutionality, and on the other hand, its enforceability. To a lesser degree there must also be considered indefinite objections to one or the other methods which would affect the possibilities of securing its enactment. The committee has endeavored, and it believes successfully, to select that method which from all points of view gives greatest reason to hope that it

will accomplish its purpose, viz, the suppression of child labor, without entailing unnecessary burdens on the producing and transporting industries of the country.

The tax method has advantages from the point of view of enforcement because of the existence of administrative organizations in the Internal-Revenue Department for the levying and collecting of the tax. The chief objections to it are: (1) That the tax might be paid and the children employed, whereupon the tax would simply become a license to employ child labor; and (2) that all such legislation may yet be subjected to the scrutiny of the Supreme Court as to whether a law, which, while calling itself a tax measure, nevertheless, by reason of the tax, destroys the thing or condition taxed, thereby preventing the possibility of revenue accruing under its terms, is in reality a tax measure. Moreover, even though such a law is held to be an exercise of the taxing power, the question arises whether it is not subject to the "due-process clause" of the fifth amendment. It is true the Supreme Court has upheld the oleomargarine tax and Congress has not hesitated to pass the phosphorous-match tax and the cotton-futures tax, both of which were really aimed at regulation which Congress had no power to accomplish directly. But the prohibition of child labor by taxing it out of existence involves at least as great difficulty from the point of view of constitutionality as does prohibition of interstate commerce in the products of child labor, and in addition it involves the possibility of Federal license of the use of child labor by persons who may find it profitable to pay the tax.

The committee has determined that on the whole it is not desirable to attempt to accomplish its purpose by the use of the taxing power.

The prohibition of the use of the mails is similar to the prohibition of the use of the channels of interstate commerce. It is, however, of more doubtful constitutionality and has the disadvantage of never having been used in practice. Furthermore, it is believed that it would not be the most effective method of reaching the desired end. It was, therefore, not deemed advisable to suggest it for the present purpose.

When it was decided to found the present legislation on the commerce clause in the Federal Constitution there arose serious questions as to the details of the necessary legislative and administrative scheme. Such legislation may take one of several distinct forms or may involve a combination of any or all of these forms. For example, it may: (1) Prohibit the shipment by producers or dealers of specified goods in interstate commerce; (2) prohibit the receipt and interstate delivery by dealers of specified goods still in the original package which have been shipped to such dealers in interstate commerce; (3) prohibit the transportation by carriers of specified goods in interstate commerce.

Each of these forms is subject to the further possibility that the goods which are excluded from interstate commerce may be: (1) The product of child labor; or (2) the product of plants or establishments in which child labor is employed (*a*) when the goods were originally shipped from the plant, (*b*) within a specified time prior to such shipment, or (*c*) at the time the goods were manufactured or produced.

It was early decided by the national child-labor committee not to undertake to prohibit the transportation of goods; that is, not to put a liability on the carrier to refrain from transporting in interstate commerce goods produced in child-labor plants. Such a prohibition would probably be one of the most effective ways of enforcing the prohibition of shipment. The meat-inspection act is generally recognized as the best example of efficient enforcement of regulatory laws, and that act is enforced by the refusal of the carrier to accept for transportation of any meat products unless they are certified as inspected and passed. It seems, however, almost impossible to apply this device to the shipment of the products of child labor. To provide that the carrier is liable, although innocent of the nature of the article shipped, is so unjust as to be out of the question. In all of the Federal acts prohibiting transportation by the carrier only four (the meat-inspection act, the cattle-quarantine act, the renovated-butter act, and the prize-fight film act) make the carrier liable in the absence of knowledge.

In all of those cases the practice of the department is not to prosecute the carrier, whose cooperation has in most instances been secured largely on account of the highly centralized nature of the producer's business. It is hardly likely that the carriers would extend the same cooperation in the case of the child-labor bill which, it must be remembered, applies to every industry in the

country. The interstate carriers of the country would probably object to this great extension of the policy of requiring them to do police or inspection duty for the Government. The food and drugs act contains no prohibition of transportation by the carrier, although such a provision would be, in the opinion of the officers of the department, a great aid in the enforcement of the law. But in that case, as in the case of child-labor products, the carrier has no means of telling whether the article offered for shipment is within the prohibition of the law, and it may well be that for this reason Congress did not in the food and drugs act impose any penalty on the carrier. To put the scheme into effect without injustice to the carrier would involve either a system of marking the articles shipped, which seems out of the question, for no carrier could take the time to examine each package presented to it for transportation, or a system of certificates or affidavits from the shipper. The clerical labor imposed on the carrier by such a system would seem to make it impossible of successful application.

The national child-labor committee, therefore, decided to put on the shipper and the dealer the whole duty of compliance with the proposed Federal law, and therefore decided to prohibit shipment in interstate commerce of goods produced by child labor contrary to prescribed standards.

In framing the substantive provisions of the bill the committee has carefully selected from the many alternative possibilities those which gave greatest hope of a favorable constitutional decision, effective enforcement without unnecessary hardship, and the likelihood of reducing to a minimum the reasonable objections to its enactment by Congress. This will appear from the following explanation of the essential provisions of the pending bill:

A. Shipment by "manufacturer, producer, or dealer" alone affected.—The committee has deliberately limited the classes of persons who are prohibited from shipping to "manufacturers, producers, or dealers." This was substituted for the general language of the Palmer-Owen bill, viz, "It shall be unlawful to ship," because the latter, unless limited, might work great hardship and injustice to innocent individuals shipping goods in interstate commerce in small quantities, e. g., the sender of a Christmas present. It is necessary to include dealers, for otherwise the act could be evaded by the manufacturer selling only to a jobber within the State, or by the creation of a dummy corporation within the State to handle the entire output of the factory. The apparent hardship to dealers who have no knowledge of the conditions in the factory in which the goods originated is obviated by the guarantee provision in the bill, which is discussed later.

B. Prohibition limited to interstate commerce.—The bill does not prohibit employment of children; it does not prohibit mining or manufacturing by the use of child labor; it does not prevent the sale or other use within the State of the products of such child labor; but it does prohibit the shipment of such products to other States. It simply withdraws from the employer of child labor those instrumentalities for the distribution of the products of child labor which are under the control of the Federal Government. If manufacturers and mine owners insist on employing young children they are simply required by the bill to confine their markets of the labor of such children to their own States.

C. Description of articles shipment of which in interstate commerce is prohibited.—The possible alternatives from which selection was made are: (1) Goods produced by child labor; (2) goods produced while child labor was employed in the plant; and (3) goods produced by a plant in which child labor was employed at a specified time or period.

The most difficult problem in connection with the administrative detail of the act is as to the articles which are to be excluded from shipment in interstate commerce. The Palmer-Owen bill as reported by the House committee last year prohibited the shipment of the products of child labor. Our objection to this was that it would not be responsive to the purposes of the National Child Labor Committee, the desire of which is to prohibit the use of child labor, whether in the actual processes of manufacture or not. In the meat-packing plants there are boys who do nothing but open and close heavy doors all day long. Children are likewise employed to clean up rubbish, carry tools, shovel coal, drive mule teams in mines and quarries, and carry lamps or dynamite, and this work might not be held to constitute a part in the production of goods. Moreover, this language in the Palmer-Owen bill makes enforcement more

difficult. In order to secure a conviction it would be necessary to prove, first, that the child had participated in the production of a certain article, and, second, that that identical article had been shipped in interstate commerce; or, if the prosecution is on the false guarantee, that the guarantee was false as to the particular article shipped. In other words, that the particular article shipped was produced by child labor.

The difficulties in the way of this proof might, of course, be overcome by sufficient force of inspectors and the cooperation of various Federal agencies, State officials, employees, and others coming into possession of evidence of violation of the act. In many cases detailed records kept by the manufacturer of the exact time of the manufacture of goods made by him, of the persons who performed labor upon them, and of the time when and the persons to whom they were shipped might furnish some of the details requisite to establish a case against a person charged with violation of the act. In an endeavor to reduce the difficulties of proof of violation and make more likely successful prosecutions against persons violating the act and thereby inspiring obedience to the provisions of the act even on the part of those opposed to it, the committee considered the possibilities of varying the provisions of the Palmer-Owen bill describing the goods whose shipment is prohibited. It has been suggested that instead of the language of the Palmer-Owen bill, the prohibition of shipment might be of goods from a factory where during the time of production child labor is used. This would seem to be but little easier of enforcement than the Palmer-Owen bill, for it would be necessary to prove that the particular goods shipped in interstate commerce were made at the time when child labor was being used. The difficulty of proof might be less if "production" were understood or defined to mean the time of completion of the production and the turning over of the product to commerce. On the whole, it was decided that to change the Palmer-Owen bill to this effect would not materially affect its enforceability and therefore would serve no useful purpose.

D. *Presumptive evidence of violation.*—The bill provides that the presence in a mine or factory of a child under the ages specified or beyond the hours specified or for a period longer than that specified, within 60 days prior to the shipment of a particular product from such mine or factory, shall constitute prima facie evidence that such product was produced in whole or in part by the labor of such child. The purpose of this provision is, of course, to reduce the difficulties of proof in a criminal proceeding to impose the penalty provided for violation of the act.

The act forbids shipment in interstate commerce of the products of the labor of children. Violation of the act is punishable as a criminal offense. The act is aimed particularly at those employers who will not relinquish the opportunity to employ children unless they are made to do so. Such employers will not obey this or any other child-labor act unless there is a real prospect that violation of the act will result in punishment. In other words, we could not hope for much from an unenforceable act; and to the extent that the act is made difficult of enforcement some employers in some parts of the country might risk violating its provisions in the expectation that it would be impossible for the public authorities to prove the violation and impose punishment therefor.

It is unquestionably difficult to prove in a criminal proceeding that the particular shipment of goods was produced in whole or in part by the labor of children. To secure a conviction it would be necessary to prove beyond a reasonable doubt that children were employed in a factory, and that they had contributed at least in part to the production of particular goods which were later shipped in interstate commerce. The purpose and effect of the prima facie clause is this: When the prosecuting attorney has proved that children were in the factory within a short time prior to the shipment of particular goods, it will then be incumbent on the owners of the factory to show that the child had no part in the production of those goods. The essential question involved in determining whether there has been a violation of the act is, "Did a child have a part in the production of goods later shipped in interstate commerce?" To require the prosecuting attorney to prove that the child had such part in the production of the goods makes proof of violation so difficult as to render convictions almost impossible even where the children have produced the goods in question. This prima facie clause simply makes the employer prove that the products of his factory were not produced by children. This is no hardship on him. If he wants to have children in his plant; if, for example, he insists on employing children to manufacture goods for intrastate trade, then let him keep

records and produce them in court when necessary to prove that children did not work on goods shipped in interstate commerce. This prima facie clause merely removes a burdensome difficulty of proof which might interfere with the proper enforcement of the act and puts it where it belongs—on the employer, who, if he has children about his factory, may reasonably be asked to prove, when called upon, that those children did not in any measure produce goods later shipped in interstate commerce.

E. *Protection afforded to dealer by manufacturer's or producer's guaranty.*—The dealer is relieved from liability if he can establish a guaranty from the manufacturer or the person who has sold the goods to him that child labor has not been used in violation of the act, and the guarantor is subjected to the same liabilities that would have been imposed on the dealer. In the absence of such a guaranty the act would be so unjust to the dealer as probably to render it unconstitutional and at least shocking to the sense of the community, for the dealer in ninety-nine cases out of a hundred could have no knowledge as to whether or not child labor was used in the factory from which the goods came. The provision found in the food and drugs act and retained in the Keating-Owen bill, that the guarantor is liable to the penalties to which the dealer is subject, was declared constitutional in the district court.

F. *Bill applies only to articles manufactured or produced in United States.*—The bill limits the prohibition of shipment to articles produced in the United States. This is necessary, as the bill contains no prohibition of the importation of the products of child labor. If such importation is not forbidden there would seem to be no reason for prohibiting the shipment in interstate commerce of such products. If importation should be prohibited, the Treasury Department would probably administer the law in the same manner as the prohibition of importation of moving-picture films which bear a false notice of copyright or which are piratical copies. The practice in such cases is to hold up the importation only when some person appears and claims that the importation is in violation of law and puts up a bond to cover the loss to the importer in case the goods are finally determined to be entitled to entry.

In this as in many other fields of remedial legislation it is not difficult to devise and formulate an ideal scheme. Ideal schemes, however, are seldom enacted into law. Conflicting interests and practical difficulties result in compromises. In this particular bill an ideal scheme from the point of view of effective enforcement would probably increase the risk of an adverse decision on its constitutionality.

An effort has been made in the formulation of the Keating-Owen bill to adjust the conflicting difficulties of effective enforcement and constitutionality. We believe that the bill as introduced by Congressman Keating, on January 7 of this year, is constitutional and is enforceable and, moreover, imposes no hardship on the employer who honestly endeavors to comply with its provisions. It is not perfect, but it must be remembered that "laws are born full grown about as often as men are."

This bill recognizes the importance of more detail rules and regulations to carry out its purposes, and it authorizes the Attorney General, the Secretary of Commerce, and the Secretary of Labor, acting as a board, to make such rules and regulations. The standards in the bill are right. If it is enacted it will stand as a declaration by Congress that goods manufactured under circumstances which fall short of those standards shall not be shipped in interstate commerce. It remains for this administrative board to fill in the details and to frame practical and definite rules and regulations which will give effect to the congressional enactment. If the work of this board is to be effective there is large opportunity for contribution to it by the friends of this measure.

MEMORANDUM.

This is a memorandum prepared by Mr. Beaman and Mr. Thompson in the legislative reference library at Washington concerning the constitutionality of various prima facie provisions in Federal and State statutes. This memorandum is complete in so far as a dicussion of the validity of such statutes is concerned. I have supplemented their memorandum with several instances of cases where the Federal Congress has seen fit to make possession of articles, or an act on the part of a person, prima facie evidence of guilt. The New York

labor law, chapter 77, which I have quoted in the memorandum of laws, is also very important and directly in point as regards the validity of these prima facie provisions. In a separate memorandum I have attempted to bring out the distinction between a clause providing for prima facie evidence and the shifting of the burden of proof in criminal cases. It is undoubtedly a settled rule in evidence that prima facie provisions do not shift the burden of proof, which always remains on the party putting in the last affirmative defense; but it does shift the burden of going forward with the evidence, and consequently compels the accused in this case to bring in more evidence in order to rebut the prima facie provision. This has no effect upon the question of proof beyond a reasonable doubt.

T. I. PARKINSON.

PRIMA FACIE EVIDENCE—CONSTITUTIONALITY.

The acts of February 9, 1909, and January 17, 1914, made the possession of opium prima facie evidence of violation of law. With respect to these statutes the court said:

"These statutes provide for presumptions or prima facie proof of the offense which, while sufficient to sustain a verdict of guilty, may or may not be sufficient to satisfy the jury of the guilt of the accused beyond a reasonable doubt. They are but what are commonly styled rules of evidence and not substantive law creating offenses, and do not deprive the jury of its function of weighing evidence and determining facts. Though the accused presents no evidence, the circumstances inevitably appearing in the prosecution's evidence may often be such that the jury will and should refuse to draw the inferences these statutes authorize, but do not and probably could not command, in that it is not satisfied they should be drawn—not convinced that the accused is guilty beyond a reasonable doubt. Like presumptions are familiar to common and statutory law in England and this country, in the former prior to emigration of our ancestry and now. So, too, to civil law. They dictate the burden of evidence as public policy may require. Conforming to ancient procedure, when not prohibited by constitutions, legislative bodies have power to create them, and in their application is 'due process of law,' provided there is rational connection between the facts proved and the facts therefrom inferred, that the inferences are not so unreasonable as to be mere arbitrary mandates and that the party affected is free to oppose them. See Luria *v.* U. S., 231 U. S., 25; 34 Sup. Ct. 10; 58 L. Ed., 101, and cases cited. For other cases see State *v.* Potello, 40 Utah, 56; 119 Pac., 1027.

"The presumptions here involved, though beyond any in revenue laws or elsewhere brought to the attention of the court, appear to come within the limits of legislative power. Doubtless they go far to prevent possession, use, and intrastate traffic in opium, which are subject only to State police power; but this is only incidental to regulation of foreign commerce, over which Congress has exclusive authority." (U. S. *v.* Yee Fing, 222 Fed. Rep., 154–156.)

Each State possesses the general power to prescribe the evidence which shall be received and the effect which shall be given to it in her own courts and may exert this power by providing that proof of a particular fact, or of several taken collectively, shall be prima facie evidence of another fact. Many such exertions of this power are shown in the legislation of the several States, and their validity as against the present objection has been uniformly recognized save where they have been found to be merely arbitrary mandates or to discriminate invidiously between different persons in substantially the same situation. Bailey *v.* Alabama, 219 U. S., 218, 238; Board of Commissioners *v.* Merchant, 103 N. Y., 143, 148. The validity of such a statute was brought in question in the recent case of Mobile, etc., Railroad Co. *v.* Turnipseed, 219 U. S., 35, 43, and it was there said by the court:

"That a legislative presumption of one fact from evidence of another may not constitute a denial of due process of law or a denial of the equal protection of the law, it is only essential that there shall be some rational connection between the fact proved and the ultimate fact presumed and that the inference of one fact from proof of another shall not be so unreasonable as to be a purely arbitrary mandate. So, also, it must not, under guise of regulating the presentation of evidence, operate to preclude the party from the right to present his defense to the main fact thus presumed. If a legislative provision, not unreasonable in itself, prescribing a rule of evidence, in either criminal or civil cases,

does not shut out from the party affected a reasonable opportunity to submit to the jury in his defense all of the facts bearing upon the issue there is no ground for holding that due process of law has been denied him." (Lindsley *v.* Natural Carbonic Gas Co., 220 U. S., 81–82.)

"It was obviously the province of the State legislature to provide the nature and extent of the legal presumption to be deduced from a given state of facts, and the creation by law of such presumptions is after all but an illustration of the power to classify. When the statute is properly understood, therefore, the argument of the plaintiff in error amounts to an assertion that the whole subject of the probative force to arise by operation of law from any specified state of fact is in every sense, by the effect of the fourteenth amendment, removed from the jurisdiction of the local authorities." (Jones *v.* Brin, 165 U. S., 180, 183.)

The provision of the act of May 5, 1892, which puts the burden of proof on a Chinese laborer of rebutting the presumption arising from his having no certificate is constitutional. (Fong Yue Ting *v.* U. S., 149 U. S., 698; Adams *v.* N. Y., 192 U. S., 585.)

For a discussion of the general principle see Wigmore on Evidence, volume 2, section 1354 (subd. 3), pages 1670–1672 and cases cited; also, People *v.* Rose (207 Ill., 352); Williams *v.* National Bank (82 Pac., 496); State *v.* Lawson (82 Pac., 750); Andricus *v.* Pineville Coal Co. (90 S. W., 233); Commonwealth *v.* Anselvoch (186 Mass., 376); Toole *v.* State (170 Ala., 41); People *v.* McBride (234 Ill., 146); Diamond *v.* State (123 Tenn., 348); Mulkey *v.* State (1 Ga. App., 521); Wilson *v.* State (138 Ga., 489); ex parte Allen (82 Vt., 365).

PRIMA FACIE EVIDENCE.

Instances of prima facie clauses in recent Federal statutes:

Books of Auditor for Post Office Department as evidence of balance against person charged with embezzlement (Crim. Code, sec. 225).

Books of Treaury Department as evidence of balance against person charged with embezzlement (Crim. Code, sec. 93).

Accumulation of profits of corporation beyond reasonable needs of business as evidence of fraudulent purpose to evade income tax (38 Stat. L., 167; Oct. 3, 1913).

Invoices exceeded more than 75 per cent in appraisal as evidence of fraud (38 Stat. L., 184 (I); Oct. 3, 1913).

Possession of opium, etc., as evidence of violation of act of December 17, 1914 (38 Stat. L., 789; Dec. 17, 1914).

Refusal to honor drafts, etc., of Treasury officer as evidence of embezzlement (Crim. Code, sec. 94).

Possession of sponges as evidence of violation of act of August 13, 1914 (38 Stat. L., 692, sec. 2; Aug. 13, 1914).

Absence of stamps from wine bottles, etc., as evidence that tax not paid (38 Stat. L., 747; Oct. 22, 1914).

Possession of intoxicating liquors with means of carrying on business of dispensing same as evidence of barroom (37 Stat. L., 1,000; March 4, 1913).

UNITED STATES STATUTES DEFINING PRIMA FACIE EVIDENCE.

Citations refer to United States Compiled Statutes, 1901.

SEC. 3352. And the absence of the proper stamps from any hogshead, barrel, keg, or other vessel containing fermented liquor, after its sale or removal from the brewery where it was made or warehouse as aforesaid, shall be notice to all persons that the tax has not been paid thereon and shall be prima facie evidence of the nonpayment thereof.

SEC. 3373. The absence of the proper stamp on any package of manufactured tobacco or snuff shall be notice to all persons that the tax has not been paid thereon and shall be prima facie evidence of the nonpayment thereof. And such tobacco or snuff shall be forfeited to the United States.

SEC 3398. The absence of the proper revenue stamp on any box of cigars sold, or offered for sale, or kept for sale, shall be notice to all persons that the tax has not been paid thereon and shall be prima facie evidence of the nonpayment thereof, and such cigars shall be forfeited to the United States.

SEC. 3954. Any person or persons bidding for the transportation of the mails upon any route which may be advertised to be let, and receiving an award of the contract for such service, who shall wrongfully refuse or fail to enter into contract with the Postmaster General in due form to perform the service described in his or their bid or proposal, or having entered into such contract shall wrongfully refuse or fail to perform such service, shall, for any such failure or refusal, be deemed guilty of a misdemeanor and be punished by a fine of not more than $5,000 and by imprisonment for not more than 12 months. And the failure or refusal of any such person or persons to enter into such contract in due form, or having entered into such contract the failure or refusal to perform such service shall be prima facie evidence in all actions or prosecutions arising under this section that such failure or refusal was wrongful.

SEC. 5495. The refusal of any person, whether in or out of office, charged with the safe-keeping, transfer, or disbursement of the public money, to pay any draft, order, or warrant drawn upon him by the proper accounting officer of the Treasury for any public money in his hands belonging to the United States, no matter in what capacity the same may have been received, or may be held, or to transfer or disburse any such money promptly, upon the legal requirement of any authorized officer, shall be deemed, upon the trial of any indictment against such person for embezzlement, as prima facie evidence of such embezzlement.

Citations from United States Compiled Statutes 1901 of Supplement 1911.

SEC 225. Any failure to produce or to pay over any such money or property, when required so to do as above provided, shall be taken to be prima facie evidence of such embezzlement, and upon the trial of any indictment against any person for such embezzlement it shall be prima facie evidence of a balance against him to produce a transcript from the account books of the Auditor for the Post Office Department.

Citation from New York Consolidated Laws (Annotated), volume 3, Labor Laws.

SEC. 77. Hours of labor of children, minors, and women.—

Par. 4. The presence of such persons in the factory at any other hours than those stated in the printed notice, or if no such notice be posted, before 7 o'clock in the morning or after 6 o'clock in the evening, shall constitute prima facie evidence of a violation of this section.

PRIMA FACIE EVIDENCE AS SHIFTING THE BURDEN OF PROOF.

The prima facie rule of evidence in a criminal case does not overcome a presumption of innocence or change the burden of proof or require the jury to convict unless they are satisfied from all the evidence of the guilt of the accused beyond a reasonable doubt. (24 Cyc. Law and Proc., p. 192.)

The effect of a prima facie evidence clause is to shift the burden of going forward with the evidence, and does not in any respect affect the guilt or innocence of the accused. In People *v.* Cannon (139 New York, 32 (1903)) an act provided that the having by any junk dealer or dealer in secondhand articles possession of certain kinds of marked bottles or kegs without the written consent of the owner of such marks shall be presumptive evidence of the unlawful use, purchase, and traffic in such bottles. The court, in holding the statutes constitutional, said:

"The inference of the existence of the main fact because of the existence of the fact actually proved must not be merely and purely arbitrary, or wholly unreasonable, unnatural, or extraordinary, and the accused must have in each case a fair opportunity to make his defense and to submit the whole case to the jury, to be decided by it after it has weighed all the evidence and given such weight to the presumption as to it shall seem proper. A provision of this kind does not take away or impair the right of trial by jury. It does not in reality and finally change the burden of proof. The people must at all times sustain the burden of proving the guilt of the accused beyond a reasonable doubt. It, in substance, enacts that, certain facts being proved, the jury may

urge them, if believed, as sufficient to convict in the absence of explanation or contradiction."

A statute of New York prescribed that possession of policy tickets is presumptive evidence against all except public officers. In Adams *v.* New York (192 U. S., 585 (1903)) it was argued that this statute was unconstitutional. The court held the statute constitutional and discussed the prima facie clause as follows:

"Innocent persons would have no trouble in explaining the possession of these tickets, and in any event the possession is only prima facie evidence, and the party is permitted to produce such testimony as will show the truth concerning the possession of the slips. Furthermore, it is within the established power of the State to prescribe the evidence which is to be received in the courts of its own government."

The CHAIRMAN. If no one else desires to be heard the committee will now adjourn.

(Thereupon at 5 minutes past 6 o'clock the committee adjourned sine die.)

INTERSTATE COMMERCE IN PRODUCTS OF CHILD LABOR

HEARING

BEFORE THE

COMMITTEE ON INTERSTATE COMMERCE UNITED STATES SENATE

SIXTY-FOURTH CONGRESS
FIRST SESSION

ON

H. R. 8234

AN ACT TO PREVENT INTERSTATE COMMERCE IN THE PRODUCTS OF CHILD LABOR, AND FOR OTHER PURPOSES

MARCH 17, 1916

Printed for the use of the Committee on Interstate Commerce

PART 2

WASHINGTON
GOVERNMENT PRINTING OFFICE
1916

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INTERSTATE COMMERCE IN PRODUCTS OF CHILD LABOR.

FRIDAY, MARCH 17, 1916.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The committee assembled at 10.30 o'clock a. m. Friday, March 17, 1916, for the purpose of resuming the consideration of the bill (H. R. 8234) to prevent interstate commerce in the products of child labor, and for other purposes.

Present: Senators Newlands (chairman), Clapp, Cummins, Robinson, La Follette, Underwood, and Townsend.

The CHAIRMAN. Miss Garrett, you may make your statement.

STATEMENT OF MISS MARY S. GARRETT, FOUNDER OF THE HOME FOR THE TRAINING OF DEAF CHILDREN BEFORE THEY ARE OF SCHOOL AGE, MEMBER OF THE PENNSYLVANIA COURT AND PROBATION ASSOCIATION, AND OF THE PHILADELPHIA JUVENILE COURT AND PROBATION ASSOCIATION.

Miss GARRETT. Mr. Chairman and gentlemen, my first contention is asking for the postponement of the Keating-Owen bill for a year in order that the citizens and Representatives of each State should investigate their own conditions thoroughly and then take up the question whether Federal legislation is advisable or whether what they have learned will not enable them to take better care of their children than would be possible in uniform Federal laws.

In an article in the Annals of the American Academy of Political and Social Science, March, 1914, Judge William N. Gemmill, who presided for the second year over the Chicago court of domestic relations, after speaking of the beneficial effect of the child-labor law of Illinois, says:

> There is, however, a danger not well understood by the average citizen, growing out of the strict enforcement of this law. In Illinois no child under the age of 14 years can ever legally be employed at any gainful occupation, and children between the ages of 14 and 16 years can not be employed during the months when school is in session, unless a certificate is obtained from the school authorities permitting such employment. One of the results of the rather strict enforcement of this law has been to turn hundreds and thousands of bright young boys upon the streets, especially during the summer months when school is not in session. They meet in groups in alleys, play marbles, craps, and engage in other games of doubtful character. Here the good boy meets the vicious boy, and together they plan some escapade which usually results disastrously to both.

Are these results, following incomplete knowledge of the average citizen of these conditions, sufficient reason for the thorough study of them by the citizens of all our States with their varied climates, industries, and conditions?

If children are not given the opportunity for proper occupation, either play or work, they will be doing something else, and the chances are that many, lacking the habits of industry or opportunity to work, will drift into the idleness which leads to crime.

In volume 8, page 29, of the eight volumes comprising the set of books Parents and Their Problems, an official organ of the National Congress of Mothers, Mrs. Theodore Birney, founder of the National Congress of Mothers, says, in an article on the congress's origin, "One of the fundamental purposes of our work is character building from the cradle."

We, the Home for the Training of Speech in Deaf Children Before They Are of School Age, Philadelphia, begin to teach children hand efficiency from the very start, not only that they may have the advantage of skillful hands during their lives, but we also require everything that they do with their little hands to be done the best they can at that stage of their development, which counts for honesty in work and in character. The medium for this training is the tying of their bibs; standing at the other side of their little beds while an older child stands at the other side and making them together day after day with faithful care, and other similar useful and helpful occupations. The nearer a child comes to us at the minimum age the more skillful its hands become in time. In the early days of the home a 3-year-old came to us. Her mother was dying of tuberculosis, her father was already dead, and three weeks after the child arrived the mother died. After this child completed her training I sent her to a family where I hoped she would be permitted to attend school with the hearing and be otherwise trained for a useful life, but it was not a success. Finally she returned to us and we trained her as a cook. She is now 21 years old and does the cooking for one cottage satisfactorily. She has five shares in the building association and also has several hundred dollars in the bank. A point I want to make is that, although she handles pots and pans, she still retains sufficient delicacy of touch to embroider exquisitely and to do crocheting and any sort of fine needlework. These latter things she does for her own amusement. The spirit of helpfulness should be planted in the characters of young children. It is one of the joys of our lives that nothing pleases our children more than the feeling that they are helping the grown people, and they love to do, as far as they can, what grown people do. They know no difference as far as their pleasure is concerned between work and play. Certainly that aids in making them unselfish. They would give up play any time for the unselfish pleasure of helping somebody.

In volume 5 of Parents and Their Problems, Mrs. Annie R. Ramsay, who did such wonderful work with the children under probation in the detention rooms after the passage of the Pennsylvania juvenile court laws in 1903, writes: "The first axiom of the padagogue is that habit training must be mostly done before the child is 12 years old."

Mr. George, of the George Junior Republic, has found that work and responsibility for some difficult tasks is almost a panacea for the reformation of the wayward children of rich and poor alike.

Prof. M. V. O'Shea, of the department of education in the University of Wisconsin, is chairman of the department of education in the National Congress of Mothers, and he says: "This one thing—providing occupation for children during their vacation periods—is of such importance that it alone might well occupy the attention of the congress."

One of the earliest parent-teacher associations established in Pennsylvania by the mothers' congress was at Middletown, of which Mrs. H. J. Wickey is the president. When I referred this question of vacation employments to our various associations, Mrs. Wickey turned it over to Mr. Wickey, superintendent of the Middletown School Board, who writes: "In our neighborhood we are very generally agreed that the child labor laws should provide that children under the age of 14 could be employed during vacations, Saturdays, and probably in the mornings and evenings before and after school hours. In towns it is almost impossible to bring a boy up to the age of 14 years without being contaminated with street vileness, and habits of laziness fastening themselves upon him. I have known many boys who have laid the financial foundation of an education, college, by working during vacation and other odd times before the age of 14 years. Besides there are many poor families who could send their children to school more regularly and even after the age of 14 if they were permitted to earn during vacation. I trust that the matter will be taken up very strenuously with the coming legislature."

Eugene Davenport, dean of the department of agriculture, University of Illinois, writing on the "Educative value of work," in volume 3, page 261, of Parents and Their Problems, says: "Man departed first from the beasts in his ability to work; and the first point of difference between the savage and the civilized is in his willingness to do it. This fundamental lesson can be learned only by daily experience beginning in childhood, for if learned by force in later years, it leads only to a hard and resistant surrender to the inevitable, and not to that joyous exercise of the working powers which is the privilege only of the well-educated human being."

William A. McKeever, professor of psychology, Manhattan Agricultural College, Kansas, says in an article, "Building a good life," page 64 of volume 4 of Parents and Their Problems: "The newer ideals of character building call for the early training of all children as if they were to enter permanently upon some bread-winning pursuit."

Hon. Benjamin B. Lindsey, juvenile court judge, of Denver, Colo., who is chairman of the department of juvenile court and probation in the National Congress of Mothers, in volume 3, page 253, of "Parents and Their Problems," writes: "I want to say very candidly that there are a great number of children in this country from 14 years of age upward about whom I feel more alarmed at their failure to do or to know how to do any kind of useful work than of any possibility of their being overworked. In our zeal for the protection of our boys subjected to extreme or unnatural conditions, we must not lose sight of the dangers and difficulties of idleness. There

are thousands of boys in the cities of this country, who if not employed at some useful thing, are generally on the streets or in the alleys, in the downtown public pool rooms, and bowling alleys, engaged not always in wholesome play, but too often in idling, cigarette smoking, and dirty-story telling, with absolutely no thought of work or the serious side of life. They are too constantly occupied with thoughts of "having a good time" and some rather perverted notions of what a good time is. Too many of our boys, especially reach the age of moral and legal responsibility without the slightest conception of work. They are too often more concerned as to how much they earn than how well they do their work. In dealing with a certain class of youth in the juvenile court, I say without hesitation, that the most hopeless fellow in the world is the boy who will not work, the boy who has not learned how to work or to know the value and importance of work. There is always hope for the boy who works, especially the boy who likes to work."

Judge Frank M. Trexler, of the superior court of Pennsylvania, says: "As president of the State Juvenile Court and Probation Association, I have for some years been interested in the problems presented, and an experience of 11 years on the common pleas bench, in which time under the law, I had all of the juvenile court work of the county, has brought me to the conclusion that there should be some provision made by which the child under the age of 14 may, under proper safeguards, be employed during vacation time and in some cases after school hours and on Saturday."

Mrs. Charles Gilpin, jr., one of the vice presidents of the Philadelphia Juvenile Court and Probation Association since 1903, and also chairman of the Mothers' Assistance Fund, in Philadelphia, who has had much direct experience with the conditions which make proper employment desirable for children, also emphasizes the value of these points.

I want to emphasize one point very strongly: That is, that the kind of employment permissible for children under 14 in vacations should be left to the discretion of the school and medical authorities of the district in which the child lives. The opportunities for the temporary employment desired in vacation are absolutely different in different localities, and are best understood by the people who live in those localities instead of by persons who know nothing of the conditions and opportunities.

There is less danger, to my mind, of children being injured by overwork than there ever was. It goes without saying that every sane person would want to save children from overwork; but it is positively wicked, to my mind, to prevent a rising generation from having the character building that comes from occupation. The National Congress of Mothers, through their work, I think, are doing an enormous amount of good in educating parents all over the United States, and I think that every year the people themselves are less and less liable to harm children by overwork.

Senator ROBINSON. May I ask a question, please? Have you made a study of the conditions of child labor in mines, quarries, factories, and other manufacturing establishments, or are your remarks directed geenrally to the lot of children engaged in labor?

Miss GARRETT. What I want to get away from is uniform legislation for all our States, such as you describe, and the same sort of

legislation for every State. I feel that wherever there is any overwork in any factories anywhere that ought to be prevented by the States themselves, and they ought to be educated up to the point of doing it. I have made a sufficient study to know that those conditions are improving.

Senator ROBINSON. That is undoubtedly true, but what I wanted to know was whether your remarks were directed against the general proposition of forbidding children to labor, or to the particular effects of this bill. I suppose you are familiar with the bill?

Miss GARRETT. I have read the bill, and that is what I fear—uniform Federal legislation for all our States.

The CHAIRMAN. You are aware that the bill applies only to certain vocations?

Miss GARRETT. Yes; but it is Federal legislation, just the same, and we fear that.

Senator ROBINSON. Why?

Miss GARRETT. You have an age there. The chronological test of the child's ability to work for the varying climates and industrial conditions of the various States is not for the best individual interests of the child. I have been over 20 years living with children, mother fashion. I know it is not a fair test. I have in mind a boy who is only 14 years old, to my knowledge, and if he were here every one of you would believe him to be 17. He has been examined by our surgeon, for my own information and satisfaction, and he says that his muscles and every part of him is able to do hard work. I only bring that point up to show that the chronological test is a very poor test.

Senator ROBINSON. Is it your position that if the State or community desires to do it, it should be permitted to authorize children to work indefinitely and at any age?

Miss GARRETT. No. I stated, if you remember, that I thought the permissibility for a child to work should be decided by the health authorities and the school authorities where that child lives.

Senator ROBINSON. And in the case of each particular child?

Miss GARRETT. Yes.

Senator ROBINSON. No child ought to be permitted to work at the age of 6 years?

Miss GARRETT. No; that is extreme.

Senator ROBINSON. Do you favor placing any age limitation whatever?

Miss GARRETT. I don't want to commit myself on that, because I don't want to do that, but I do say that the chronological test is not a good one.

Senator ROBINSON. What test do you regard as the best?

Miss GARRETT. Whatever the medical and the school authorities think. That saves the child's education. The States themselves are studying these questions, and if the school authorities or the medical authorities are not fair to the children, they will know it in those places. It is impossible for a Federal law to cover conditions in every State fairly to every child.

Senator ROBINSON. I am sure of that, too.

Miss GARRETT. I have lived, as I have said, for over 20 years with successive numbers of young deaf children——

Senator ROBINSON (interrupting). You don't think there ought to be any Federal legislation on that subject at all?

Miss GARRETT. I do not. I ask you to postpone it. I don't want to appear here as antagonistic to anything, but I do ask that the thing be postponed so that further study, that is going on vigorously, I am sure, can be given the question. This is the age of the child, and everybody is waking up to it; but there is a good deal of sentimental talk about certain things that are not well digested, and I don't see how the child can suffer when you see what the mothers' congress is doing to save them.

Senator ROBINSON. Do children work in factories in Philadelphia?

Miss GARRETT. Yes.

Senator CUMMINS. But not under 14 years?

Miss GARRETT. No; not under 14 years. I can read you Mother Munro's letter from that district. She is a thrifty Scotch woman, who lives in the mill district and works to help the people to make the best of the money that they earn, and tries to teach them important things which they do not already know. She says: "You know I am in the midst of the working class, and I know their condition. They have not so very hard work, and you know, as a rule, they come from large families and must work to help bring up the others. A position during vacation is also very much needed. Many a mother has cried to me and said, 'Mother Munro, I hate to see vacation time coming, for my boys and girls will be in all kinds of trouble, and will be on the street from morning until night, and my heart will be broken.' I could tell you of many cases where the downfall of the boy has dated from the time when he had nothing to do but stand at the corner with older boys and men and learn from them the things that he put into practice. Now, if at this age he had something to do—not too hard, you know—he would at least have been able to withstand the temptations a little better and his mind would have been employed part of the time, and I am sure his dear mother would have had less heartache. I could give you case upon case on this subject, and all can be traced to idleness."

It should be thoroughly well known that the working classes have very much larger families than the other classes. A contributing factor to this condition is that two religious bodies, Roman Catholic and Jewish, conscientiously believe that parents should all have large families. The other classes composing our population, as a rule, have a smaller number of children. Resulting from these conditions, gainful occupations are necessary to the working classes in a greater degree than to the children of the other classes, and idleness among these people which has been proved to lead to crime may threaten the next generation through preponderance of numbers. Justice to all classes requires that children should be trained from an early age in habits of industry, and even in some gainful occupations, without, of course, overworking any child.

The CHAIRMAN. Your observation, Miss Garrett, is that the training of children should not be entirely a training of the head, and that there could be a training of the hand and the eye in vocations that could be pursued at an earlier age than 14?

Miss GARRETT. That is entirely my contention, Senator Newlands, and you can see it is supported by educators, by the authorities whom I have quoted, most of whom have written articles to educate parents.

and on other problems on this subject. Of course I have lived in the position of a parent for these deaf children, and I don't see how anyone who seriously studies the problem and studies the child can help realizing that idleness is the worst thing that can happen to them.

Senator CUMMINS. This bill would affect Pennsylvania only in this respect: That there is no provision against children working, excepting between 14 and 16, more than eight hours a day, and Pennsylvania has no such prohibition in its law.

Miss GARRETT. But in the law that went into effect on the 1st of January it prevents occupation to all children under 14. Children under 14 can't have any occupation, excepting selling newspapers, when they are over 12 years of age.

Senator LIPPITT. Can they work on the farm?

Miss GARRETT. Agricultural and domestic; yes. It seems to me that children can be just as much abused in agriculture and domestic work by unscrupulous persons, and have been, as in any other occupation.

Senator LIPPITT. Do you consider work in factories particularly objectionable for children?

Miss GARRETT. That depends. I have no interest in any manufacturer, but I don't think it is fair to refer to manufacturers as a race of criminals, as they are generally referred to in this agitation. I think they are more and more measuring up to the trend of public opinion at this time. Of course nothing is more important to conserve than children.

Senator CUMMINS. I was trying to bring to your mind the fact that this law would not affect Pennsylvania save that it would prevent the working of children more than eight hours a day; otherwise the law of Pennsylvania is more rigid.

Miss GARRETT. I am not considering only the law of Pennsylvania; I am speaking for the children of the United States.

Senator CUMMINS. Otherwise it would not affect your community in any way.

Miss GARRETT. No. I am thinking of the children of the United States.

The CHAIRMAN. You are aware, are you not, that thus far no one has appeared to present the views that you have given? You are the first.

Miss GARRETT. I don't know anybody who did, Senator Newlands; I feel it my duty to, though.

The CHAIRMAN. This matter has been under discussion for some time. Various child-labor bills have been presented, and as yet the mothers or the representatives of the mothers' congress have not appeared apparently.

Miss GARRETT. They have waited patiently to be notified of an opportunity to be heard. And the good Lord put it into my mind you were interested in children, and I wrote you that letter the other day.

The CHAIRMAN. I want to call your attention also to the fact that this matter has been submitted; the hearing has been closed, and there seems to be a very strenuous demand from the outside that this legislation should go on; I am receiving letters from female colleges signed by numerous students, and associations of various kinds, urging this legislation, some of them insinuating that the legislation

is being held up for some sinister motive. Now, is there any way of your getting quickly an expression from such an organization as the mothers' congress upon this subject?

Miss GARRETT. We are waiting to give it to you. Mrs. Birney is chairman of the child-labor department in the National Congress of Mothers.

The CHAIRMAN. What responsible position do you hold with reference to this question?

Miss GARRETT. I am vice chairman of Mrs. Birney's department in the National Congress of Mothers.

The CHAIRMAN. You are also a member of some court, are you not?

Miss GARRETT. Yes; I am a member of the Pennsylvania Juvenile Court and Probation Association of which Judge Frank M. Trexler, of the Superior Court of Pennsylvania, is the president. I have been working for children for a great many years.

The CHAIRMAN. And a member of the Philadelphia Juvenile Court and Probation Association?

Miss GARRETT. Yes; and Judge John M. Patterson is president of it. For eight years after the juvenile court laws were enacted in Pennsylvania this association, through religious associations, Protestant, Catholic, and Jewish, and through women's clubs, raised the money to pay the salaries of the probation officers in Philadelphia to keep it out of politics. During these eight years the judges appointed the probation officers whom we recommended, and with whom representatives of our association met regularly to study and discuss their cases with them. During this time we learned much of the conditions of unfortunate children and what is necessary to help them. Then a law was gotten through requiring the probation officers to be paid by the State.

The CHAIRMAN. Are you connected with people who are engaged in this work as a life work? Of training children both in character and vocation?

Miss GARRETT. I have been in that business for over 20 years and I am connected with many who are interested in that subject.

The CHAIRMAN. What is the sentiment of those people with which you are connected on the subject of this bill?

Miss GARRETT. Just the same as my own; entirely disinterested people.

Senator LIPPITT. Why is it that these people that you represent and say have the same opinion that you have in regard to this subject haven't made that opinion more evident to Members of Congress? What the chairman says about being urged to pass this bill is my experience as well as his, and I expect it is the experience of every man on this committee. I suppose I have received a stack of petitions a foot high, signed by various people, urging the passage of this bill—largely women—and I must confess that the character of the petitions rather suggested to me that the people were not fairly posted on the subject; nevertheless, I have received no petitions, so far as I know, against this bill.

Miss GARRETT. I am as much surprised as you are, because I can not understand why these people have not made some effort to do something, and it was in desperation that I made a personal effort because they haven't done anything.

Senator LIPPITT. I feel it would be a very useful thing if the other side of this question was presented to this committee in some form, because I personally feel that there is another side of it, and it ought to be brought to the attention of the legislators.

Miss GARRETT. I assure you I am surprised that it has not happened.

Senator LIPPITT. But you will realize the position, perhaps, of the Senate when representations come to them all on one side. You said you were especially interested in the training of deaf children?

Miss GARRETT. A number of years ago my sister and I became interested. It was through the successful efforts of three mothers who, on discovering that their children were deaf, at once began to train them in speech and language through the eye that made my sister, who afterwards died, think that this opportunity should be for the masses of the deaf. Mrs. Alexander Graham Bell, of this city, was one.

Senator LIPPITT. One of them was, I think, my sister, Miss Lippitt.

Miss GARRETT. Yes; she was one. We felt this early education ought to be for the masses of the deaf, and if you are interested, I will be very glad to send you some of our literature. We began a little home for this purpose, and we were able to have the State of Pennsylvania adopt it, which makes Pennsylvania the first government in the world to admit the truth that the early years of the deaf children should be utilized, and I think we have proved that in our work.

Senator LIPPITT. You teach them the oral system?

Miss GARRETT. Absolutely. I take them when they are 2, and send them away when they are old enough to go to school with children who can hear.

Senator LIPPITT. You spoke of having some literature on this subject; have you arranged to have that put in the record?

Miss GARRETT. You mean literature about the deaf?

Senator LIPPITT. I mean the literature along these same lines.

Miss GARRETT. Letters indorsing this; yes. Regarding the general subject under discussion, I want to say that legislation that takes away from all parents and all educators the privilege of discretion and judgment as to what is best for children because some parents and some educators may abuse it, is dangerous to child welfare.

The CHAIRMAN. We would be glad to hear from Mrs. Helen T. Birney, who is present.

STATEMENT OF MRS. HELEN T. BIRNEY, 1516 TWENTY-SECOND STREET NW., WASHINGTON, D. C., CORRESPONDING SECRETARY OF THE NATIONAL CONGRESS OF MOTHERS AND PARENT-TEACHER ASSOCIATION.

The CHAIRMAN. What position do you hold in the mothers' congress?

Mrs. BIRNEY. I am national corresponding secretary, so I am in touch with all the States of the Union.

The CHAIRMAN. What is the purpose of your organization?

Mrs. BIRNEY. Entirely educational. To educate parents in duties relating to child welfare, training and work. We have thousands of those parents' organizations in the different States.

The CHAIRMAN. That organization was founded by your sister?

Mrs. BIRNEY. Yes; about 20 years ago; it has gone along in its educational work ever since. In the matter of Federal child labor legislation we are desirous that action be postponed until we can learn the effects of such legislation in the different States which have passed laws upon this subject. We have taken steps to get such information, one of which is the sending of a questionaire into those States from which we expect to learn how such laws have affected children educationally, physically, and morally. After getting this information we hope to be able to reach a conclusion as to what Federal legislation is important or necessary and to have something definite to give you.

The CHAIRMAN. How general is your organization?

Mrs. BIRNEY. In what respect do you mean?

The CHAIRMAN. How extensive is it?

Mrs. BIRNEY. It extends all over the United States. And we have branches in foreign countries.

The CHAIRMAN. Do you have an annual congress?

Mrs. BIRNEY. Yes; an annual which meets in different cities each year and a triennial that meets here—every three years. This year the meeting will be in Nashville, Tenn. Last year it was in Portland, Oreg., and in 1913 it was in Boston, Mass.

The CHAIRMAN. Do you have organizations in the various States also?

Mrs. BIRNEY. In every State.

The CHAIRMAN. Do they have their regular meetings?

Mrs. BIRNEY. They have their annual meetings in those States where there are State organizations and a State president. In a few of the States we have parent-teacher associations but no State organization.

The CHAIRMAN. With what vigor is that work conducted?

Mrs. BIRNEY. With a great deal of vigor. We did have two weak States in the whole Union and they are now coming along very nicely. We have been permitted in the last two years to establish in the Bureau of Education what is known as the home division. In the first 15 months 27,969 bulletins on the "Care of the Baby" were sent to the mothers of babies. One thousand nine hundred and seventy-four women are operating in extension of parent-teacher associations and home education. Over 25,000 names of women have been sent in by superintendents of schools who recommend the women as interested and able to cooperate in organizing parents for study of child nurture and home making. This department sends out reading courses of educational nature that have been prepared in collaboration with the Commissioner of Education. In the past 15 months we have sent out 100,000 of these courses. We average about 10,000 a month. The past month of February we had calls from all over the United States from 26,000 applicants to join these courses, so you see we are entirely educational. There are no salaries paid in our organization except for clerical assistance and we pay the expenses of the home department in the Bureau of Education. Our

work is very broad and very educational, and we are doing it entirely for the benefit of the child.

The CHAIRMAN. Besides these State organizations, do you have regular organizations in the various towns and cities?

Mrs. BIRNEY. Yes. The local organizations respond to the State and the State responds to the national, so it is a link within a link all over the country. I could not give you the number of the local organizations.

The CHAIRMAN. About how many members all told?

Mrs. BIRNEY. We have over 100,000 members.

The CHAIRMAN. Will you proceed with your statement?

Mrs. BIRNEY. We think in the mothers' congress that State legislation can much better regulate conditions for the children than national legislation; that the conditions of life vary so in the different States that a Federal law applying one rule for all the States might do harm instead of good. That what would be a good rule for one locality might do harm and be oppressive and injurious in another, far distant perhaps. That regulations for towns or cities where there are factories might be wholly unsuitable for villages or rural communities. We think also that before national legislation is enacted an attempt should be made to make the States feel their responsibility in this matter, and that if educated to that end, as we are trying to do, they will study their particular State conditions and legislate more intelligently for this than can be done by Congress. This process of education is going on and we are most hopeful of good results in all the States. At this very moment, and preliminary to the national meeting of our congress of mothers at Nashville, to be held in April, a number of our earnest and able women are, at their own expense, visiting many of the smaller cities of the South, addressing large gatherings of women on this and kindred subjects and meeting with eager and cordial welcome. They will accomplish good, which will make itself felt, and we feel that a response may be formed in the legislation of those States.

There are features of the proposed legislation which excite our grave apprehension. Compulsory idleness in boys to the age of 14 years is one of the things which ought not to be. I am the mother of five sons and would have thought it a terrible thing for them if I could not have regulated their occupations through their summer vacations, and been compelled by law to suffer them to idle away those periods until they were 14 years old. You can not take the boy of 14 who has not been taught to make himself useful and instill into him the principles of thrift and industry as you might have done when he was a little fellow. You can not begin at 14 to train children. You must begin younger. The performance of regular duties, of work suited to their strength, through their summer vacations and at other times will help them to be good citizens. Habits of loafing and idling once acquired are most difficult to overcome.

The CHAIRMAN. You speak of submitting this matter to the various States. You are aware that this movement springs out of the fact that while many of the States have legislated more or less, there are others that are very slow, and hence those who have been in this humanitarian movement have insisted that the United States

itself should take hold of this matter in order to bring these recalcitrant States into line. What do you think of the importance of that?

Mrs. BIRNEY. I think you had better go slowly, than to force things and be sorry. I think in a great many cases where we force upon a State what it is not prepared to accept we do harm instead of good. Last fall I attended a meeting held in Pittsburgh, of the mothers' congress. The mothers there said that this bill, if enacted into law, would work a very great hardship if it should go into effect in January of this year. That their boys would be refused by law to allow their parents to give them any occupation. In order to keep the boys occupied they would be taken out each morning to a municipal farm, which would give them occupation for the day; and they were distressed, because their boys would be taken with a lot of boys, of whose morals and manners they knew nothing, and placed under the guardianship of some man who didn't know them and wasn't interested in them. They considered that it was a very great hardship to give the boys that kind of training instead of getting some legitimate occupation for them that their parents would think was wholesome and beneficial.

The CHAIRMAN. Do you know what Miss Lathrop thinks of this?

Mrs. BIRNEY. I do not know.

Miss GARRETT. You referred to some of the States that had no sufficiently advanced legislation to protect their children. I think we will create a more healthful situation in those States through the education we are trying to give them than if they are forced to do something they don't want to do.

The CHAIRMAN. Mr. McKelway, you may proceed now.

STATEMENT OF A. J. McKELWAY, WASHINGTON, D. C., SECRETARY FOR THE SOUTHERN STATES, OF THE NATIONAL CHILD LABOR COMMITTEE.

The CHAIRMAN. Mr. McKelway, you handed me a copy of a telegram yesterday from the organization of the Women's Congress in Philadelphia.

Mr. MCKELWAY. Of Pennsylvania; yes. A letter, not a telegram.

The CHAIRMAN. Have you a copy of it?

Mr. MCKELWAY. Yes, sir; here is a copy of it.

The CHAIRMAN. Read it, please.

Mr. MCKELWAY. I will say this is entirely unsolicited by me. I suppose they have seen the press notices of the appearance of Mrs. Birney and Miss Garrett before the committee.

PENNSYLVANIA CONGRESS OF MOTHERS
AND PARENT-TEACHERS ASSOCIATIONS,
Philadelphia, March 22, 1916.

Mr. A. J. MCKELWAY,
204 Bond Building, Washington, D. C.

DEAR SIR: Will you use the inclosed protest to the best advantage for the children and give it to each member of the Senate Committee on Interstate and Foreign Commerce? It is indorsed by a committee of members of congress of mothers representing clubs in Philadelphia and vicinity at a meeting held to-day. You may also give it to the Associated Press.

Yours, very truly,

ALICE P. MCCAULEY.
(MRS. E. V.)

(The letter is as follows:)

PHILADELPHIA, *March 22, 1916.*

Mr. A. J. McKELWAY,
204 Bond Building, Washington, D. C.:

When Miss Mary L. Garrett, of Philadelphia, and Mrs. A. A. Birney, of Washington, appeared before the Senate Committee on Interstate and Foreign Commerce, March 17, against the Keating-Owen child-labor bill, claiming to represent the National Congress of Mothers, of which Mrs. Frederic Schoff, of Philadelphia, is president, they did not represent the opinion of 500 and more members in and near Philadelphia, nor hundreds of others throughout the United States.

A. P. McCAULEY,
Chairman of Committee.

The CHAIRMAN. Neither Miss Garrett nor Mrs. Birney claimed to represent them. How about Mrs. Schoff? Did she join in that?

Mr. McKELWAY. No. Her name is on this letterhead as honorary president.

The CHAIRMAN. I wanted to ask you whether, to your knowledge, the mothers' congress has taken hold of this in any particular way?

Mr. McKELWAY. Not to my knowledge.

The CHAIRMAN. Do they form part of the organization to which you refer?

Mr. McKELWAY. No.

The CHAIRMAN. May I ask what organizations do you represent and how are they formed?

Mr. McKELWAY. I am one of the secretaries—the southern secretary of the National Child Labor Committee. It is an organization of people interested in the child labor question, organized about 12 years ago.

The CHAIRMAN. How large a committee is that?

Mr. McKELWAY. It has a board of trustees of some 15 members, whose general offices are in New York City. We have some eight or nine thousand contributing members scattered throughout the United States.

The CHAIRMAN. What is the basis of their contribution?

Mr. McKELWAY. They contribute about $60,000 a year—most of them from $2 to $25 a year.

The CHAIRMAN. I would like to know who really represents the children. I wish you would state the nature of your organization. There are so many conflicting statements made. For instance, Mrs. Birney, the corresponding secretary of the mothers' congress, appeared here with Miss Garrett.

Mr. McKELWAY. Mrs. Birney was a former official, I think, of the Washington Congress of Mothers, but I understand Mrs. Birney is not now officially connected with the organization here. Her sister-in-law was the founder of the congress of mothers. The officers of the National Child Labor Committee are Felix Adler, chairman; Samuel McCune Lindsay and Homer Folks, vice chairmen; V. Everitt Macy, treasurer; Owen R. Lovejoy, general secretary; A. J. McKelway, secretary for the Southern States; Edward N. Clopper, secretary for the Northern States; Josephine J. Eschenbrenner, membership secretary; and Florence I. Taylor, publication secretary. The board of trustees consists of Felix Adler, Jane Addams, Leo Arnstein, Henry Bruere, Francis G. Caffey, Howell Cheney, Edward T. Devine, Homer Folks, William E. Harmon, Florence Kelley,

Adolph Lewisohn. Samuel McCune Lindsay, V. Everitt Macy, Charles P. Neill, Isaac N. Seligman, Lillian D. Wald, Stephen S. Wise, and John W. Wood.

The CHAIRMAN. Where do the most of that board reside?

Mr. MCKELWAY. Most of them in New York City. Mr. Caffey is Solicitor of the Agricultural Department here in Washington.

The CHAIRMAN. Do they have organized meetings?

Mr. MCKELWAY. Oh, yes; we have regular meetings of the board and an annual conference. We are incorporated by act of Congress. It is one of the few organizations that is.

The CHAIRMAN. You have a national charter, then?

Mr. MCKELWAY. Yes; we have a national charter.

The CHAIRMAN. You say there are how many contributing members?

Mr. MCKELWAY. Eight or nine thousand, who contribute about $60,000 a year.

The CHAIRMAN. A statement has been made to me that an organization of manufacturers in Boston called the Arkwright Club, or some other similar organization, is a contributor to the funds of this organization?

Mr. MCKELWAY. I don't think there is a word of truth in that. The Arkwright Club is on record in the Senate hearings as having sent a memorandum to one of the southern cotton manufacturers saying that the eight-hour law did not work very well in Massachusetts. You will find also in the hearings that when Senator Lippitt asked Capt. Smyth, of South Carolina, as to whether the New England manufacturers were behind this measure Capt. Smyth, from South Carolina, emphatically said they were not.

The CHAIRMAN. You don't know of any organization of manufacturers in Massachusetts or elsewhere who are endeavoring to advance this movement with a view to equalizing conditions of that child labor?

Mr. MCKELWAY. I am certain there is no such organization.

The CHAIRMAN. Have you ever consulted with the mothers' congress as to the methods of humanely framing these labor laws in such a way as to advance the interest of the child?

Mr. MCKELWAY. We think we are advancing the interests of the child.

The CHAIRMAN. Have you ever consulted with them?

Mr. MCKELWAY. I helped arrange for the first southern meeting of the mothers' congress meeting in Atlanta. I understand that Mrs. Schoff, who is honorary president of the Pennsylvania congress, had a child-labor bill introduced before the Pennsylvania Legislature last year, but the legislature adopted the bill which was advocated by the Pennsylvania child labor committee. I understand her position, from clippings in the newspapers, is that children under 14 should be allowed some opportunity for work, the theory of the idle child, and so forth. So far as this bill is concerned, I think it is rather too late to raise that question, because nearly all the States of the Union have fixed an age limit of 14, prohibiting the employment of children in factories. So it is already in operation in one form or another in 45 out of 48 States.

The CHAIRMAN. But experience might lead some of those States to modify that law.

Mr. McKELWAY. The progress has been entirely in the other direction, that of abolishing all exemptions.

The CHAIRMAN. Mrs. Birney and Miss Garrett both deny that this direction is in the line of progress, and they say this whole subject is under consideration by the mothers' congress, and they requested postponement of this legislation for one year in order that they may have time to present the facts. What have you to say to that?

Mr. McKELWAY. I hardly think that the representations of only two of the members of the mothers' congress should be taken; one of them, I understand, Miss Garrett, did not represent the mothers' congress.

Senator TOWNSEND. Mrs. Birney did not say they spoke for the congress; she said she was corresponding secretary of the organization.

Mr. McKELWAY. The largest organization of women in this country is the General Federation of Women's Clubs. That has State organizations and local organizations scattered all over the country, and that organization has officially indorsed the Keating-Owen bill.

The CHAIRMAN. Has the mothers' congress ever made any showing to your committee or your organization, indicating the trend of their view as to the legislation which should be enacted on this subject?

Mr. McKELWAY. Not to my knowledge.

The CHAIRMAN. Have you read Mrs. Birney's statement?

Mr. McKELWAY. No; I have not seen it.

The CHAIRMAN. Have you read Miss Garrett's?

Mr. McKELWAY. No; I haven't seen either one. I have seen only the press dispatches.

The CHAIRMAN. I wish you would look over those statements and state to this committee your views as to their expression.

Mr. McKELWAY. I know that some of the State organizations of the mothers' congress are behind our movement.

The testimony to which I referred, denying that New England manufacturers were advocating the Federal child-labor bill to equalize conditions of manufacture, is contained on page 23 of the hearings before this committee and is as follow:

Senator CLAPP. Do you anticipate that the cotton manufacturers of New England are going to get enthusiastically behind this bill as a matter of competition with the North Carolina or South Carolina people?

Mr. SMYTH. Mr. Mann made that statement in the House, and it was made by Mr. Gardner, of Massachusetts.

Senator LIPPITT. What was this statement?

Mr. SMYTH. That the bill should be passed because it was a defense of New England manufacturers and a protection to them and putting them on an equality with the southern mills or bringing the southern mills up to an equality with them. You will find that in the Congressional Record.

Senator LIPPITT. You do not believe that, do you?

Mr. SMYTH. No, sir; I do not. I know that a great many of my friends in Massachusetts are opposed to the passage of this law.

Senator LIPPITT. You do not believe for a minute that the manufacturers of New England are endeavoring to have this bill passed for the purpose of engaging in competition with the South, do you?

Mr. SMYTH. Not at all.

As a matter of fact, the National Child Labor Committee and the New England State committees affiliated with it have had just as earnest contests with child-employing manufacturers in the New

England States as elsewhere. With regard to the statement that "an organization of manufacturers in Boston, called the Arkwright Club, or some other similar organization, is a contributor to the funds of this organization"—that is, the National Child Labor Committee—I may say that any individual or organization may become a contributing member of the National Child Labor Committee by subscribing $2, thus being entitled to the literature we publish. We have had 12 annual conferences, at which a large number of people who were authorities on matters relating to the welfare of childhood have made addresses and contributed papers. In addition to the volumes which have thus been published we publish a quarterly bulletin and have printed some two hundred pamphlets relating to the various phases of the child-labor problem, thus creating a very considerable body of child-labor literature. But the attitude of the Arkwright Club is shown in a memorandum, published in the Senate hearings on page 231, sent to opponents of the bill who were then appearing before this committee. The following is the memorandum:

MEMORANDUM RECEIVED FROM ARKWRIGHT CLUB.

Massachusetts laws provide that women and children under 18 shall not work more than 54 hours a week nor more than 10 hours in any one day, and that minors under 16 shall not work more than 48 hours a week nor more than 8 hours in any one day, nor before 6.30 nor after 6.

Adjustments to new conditions for a year caused much confusion. In some cases minors under 16 were discharged; in other cases they were kept for detached jobs, but not for regular work on machines.

Employers differ about result. Many cases of hardship occurred—where strong boys lost their jobs and their mothers went back to work. In some cities boys loafed about the streets. The final result is that comparatively few under 16 are now at work and none under 14.

So the Arkwright Club appears as in sympathy with the opposition to this bill. With reference to this memorandum and to the telegrams sent by manufacturers in Massachusetts to certain of the southern cotton manufacturers who appeared before the committee, I desire to introduce as a reply a letter received by me from Mr. Richard K. Conant, secretary of the Massachusetts Child Labor Committee:

MASSACHUSETTS CHILD LABOR COMMITTEE,
6 Beacon Street, Boston, February 26, 1916.

Dr. A. J. MCKELWAY,
204 Bond Building, Washington, D. C.

DEAR DR. MCKELWAY: The telegram from three Massachusetts manufacturers and the memorandum from the Arkwright Club, sent to the Interstate Commerce Committee, make some general statements about the effect in Massachusetts of the eight-hour day for children under 16 years of age. They state that the law resulted in the discharge of such children from employment, causing hardship; that few such children are now employed; and that the children excluded from the mills do not go to school and are idle on the streets.

These are the same general statements which were made in newspapers at the time the law went into effect in 1913 and made again by a few legislators who tried to secure the repeal of the law in 1914. The statements were not substantiated by the report of the State board which investigated them; they were not substantiated at the legislative committee hearing on the petitions to repeal the law, and when they were advanced in our house of representatives and completely disproved by statistics the law was upheld by a vote of 162 to 42 and hasn't been questioned since.

The statistics showed that of the 31,000 children previously at work 28,000 had been granted new working certificates within four months after the law went into effect; that the children discharged had been very quickly reemployed on an eight-hour basis; and that the children were employed in all the operations in which they had been previously employed.

As far as we can find out, the situation is unchanged. The last published report of the board of labor and industries shows that about 25,000 children between 14 and 16 were granted employment certificates in 1914. Our observations indicate that children are employed in quite large enough numbers in all operations. For example the last inspection in Fall River, in 1915, showed that among 1,112 children under 16 who were employed in cloth mills 321 were employed as weavers, 403 as spinners, and 169 as spoolers.

The newspaper cries of hardship never gave facts. We made a diligent search for hardship and found only a few cases where temporary aid had to be given while the manufacturers were rearranging their schedules.

Idleness was investigated also. Children under 16 who are not at work are compelled by law to be at school. Reports which we got from truant officers throughout the State showed that this law was well enforced and that there was no more idleness than before the eight-hour law went into effect. The slight decrease in the number of children employed caused a corresponding increase in school attendance which was checked up numerically in Boston and which was noticed in other cities.

I don't believe that the general statements made in the telegrams are based upon their writers' own knowledge of facts. We find that the heads of corporations sometimes have a general idea about this question without knowing specifically whether the children are employed or not. The agent of a Lowell mill informed us that he had discharged all the children and that there were only 25 employed in his mill. We interviewed the overseers and found that 100 children were employed—just as many as had been employed before the law went into effect. The overseers stated that they were glad to get the children even if they could work only eight hours.

You will note that two of the telegrams state that employers differ in regard to the effect of the law. I think that the four opinions expressed represent a very small minority opinion at the present time.

Sincerely,

RICHARD K. CONANT, *Secretary.*

I have carefully read the statements made by Miss Mary S. Garrett and Mrs. Helen P. Birney. I note that they are mainly individual expressions of opinion and, as Senator Townsend stated, they do not attempt to represent the sentiment of the National Congress of Mothers.

The proposition that we should postpone the enactment of the Keating-Owen bill for a year "in order that the citizens and representatives of each State should investigate their own conditions thoroughly and then take up the question whether Federal legislation is advisable, or whether what they have learned will not enable them to take better care of their children than would be possible in any Federal laws," seems to me to disregard all the facts in the case. Citizens and representatives of the different States have been studying this question for many years, and have already put on record in State legislation their general acceptance of the standards of child protection prescribed in the Federal bill. As for uniformity American childhood needs the same protection everywhere. As high an authority as the American Bar Association deems that child-labor legislation is a matter in which uniformity is greatly to be desired, for the American Bar Association unanimously adopted the report of its commission on uniform State laws and recommended to all the States for adoption what is known as the uniform child-labor law, which contains the very standards we advocate in this bill, while going beyond them in some matters we have thought could not be contained in this bill, as, for example, the prohibition of night-work by messengers under 21 years of age, on account of the demoralizing nature of that occupation, the prohibition of the employment of children under 16 years of age in dangerous occupations and of children under 18 years of age in extra hazardous occupations, etc.

The bill now pending before this committee confessedly does not touch many phases of the child-labor question, but confines itself to the prohiibtion of shipments in interstate commerce from mines, mills, factories, and canneries where children under the prescribed ages are employed, leaving many other employments for children which the States may allow or forbid, according to the will of their people, as crystallized in State legislation. So far as I could gather from a reading of the two statements by these excellent women, they make no point about the employment of children under 16 years of age in mines. This is a measure which has been adopted by a great majority of the mining States, and is designed not only for the protection of the children themselves but for the whole mass of miners who are subject to accidents brought about by the carelessness and recklessness of immature boys. For testimony on this subject, I respectfully refer again to the hearings on pages 190, 191.

Nor did Miss Garrett and Mrs. Birney suggest that children under 16 years of age should be employed at night, or that they should be employed for more than eight hours a day. Nor do they contend, nor would they contend, that the employment of children under 14 years of age should interfere with their training in the schools. Miss Garrett sums up her contention in the following words: "The kind of employment permissible for children under 14 in vacations should be left to the discretion of the school and medical authorities of the district in which the child lives." The generally accepted principles of child-labor legislation have been so emphatically accepted by school authorities generally and by medical authorities throughout the United States, including the American Medical Association and the Philadelphia County Medical Society (see pp. 204–205 of the hearings) that I think it would be difficult to secure any competent testimony from either school or medical authorities favoring the employment of children in mills and factories under 14 years of age, which is the contention before us. Some of us are, perhaps, unduly concerned about keeping other people's children out of mischief by forcing them to labor. We desire for our own children, after 9 or 10 months of school, a period during the summer months called vacation. Why should we strive to enact for other people's children under 14 years of age a program which calls for, say, nine months of school and three months of work in a mill?

The prohibition of the employment of children under 14 years of age has been so generally accepted throughout the United States that it is almost idle to argue against it. Only three States, New Mexico, North Carolina, and Wyoming, have no 14-year age limit in factories. Three States, Alabama, South Carolina, and Georgia, have enacted the 14-year age limit by recent legislation, which has not fully gone into effect as yet. Only two States, Colorado and Idaho, allow the employment of children under 14 years of age in vacations, and the number of children employed in these States in factories is insignificant. California, with a 15-year age limit, allows children of 14 to be employed in vacation, and the California law would thus harmonize with the standards of the bill before this committee. Out of 100,000,000 people in the United States more than 97,000,000 have said, through State legislation, that they are

opposed to the employment of children in factories under 14 years of age.

Mrs. Garrett speaks of the Pennsylvania law that went into effect on the 1st of January as preventing "occupation to all children under 14." Pennsylvania for many years has had a law prohibiting the employment of children under 14 years of age in factories. The District of Columbia, in which Mrs. Birney resides, has had since 1908 a law passed by the Congress of the United States not only prohibiting the employment of children under 14 years of age in factories, mercantile establishments, etc., but containing the other standards of this bill, the prohibition of night work for children under 16 and the prescribing an 8-hour day for children under 16. The strength of the sentiment, if it be called sentiment, behind the enactment of the Federal child-labor law, is the experience which the people interested in this question in the States have already had concerning the actual workings of child-labor laws. They recognize that the enactment of a Federal law will be a great aid to the enforcement of the laws already in existence in most of the States, while it will tend to the protection of children now employed below these standards in other States.

With regard to the employment of children under 14 years of age in factories in vacation, experience here also is our guide. First, a good many States formerly allowed such employment. But it was found that the worst season of the year for confining children within the walls of factories was the vacation season during the torrid summer months. Again, in the experience of those interested in enforcing the law, it was found that when once the mill or factory had laid claim to the child under 14, through affording an opportunity for employment, every possible expedient and device would be adopted to continue the employment of the child after the vacation period was over.

I find that Miss Garrett quotes from a good many prominent people, but upon examination most of these quotations seem to be irrelevant. For example, she quotes from Mrs. Theodore Birney, founder of the National Congress of Mothers, who says, "One fundamental purpose of our work is character building from the cradle." I do not presume that Miss Garrett would insist upon work in a factory as part of character building from the earliest moment in childhood when the child could be employed. As I can testify from personal knowledge, Mrs. Theodore Birney was one of the most enthusiastic supporters of the bill before the Georgia Legislature raising the age limit for the employment of children to 14 years, and her eloquent pen was busy writing stories and arguments for the Atlanta papers in favor of the legislation. Nobody that I know of is opposed to work for children; we object to their being worked. Most of us who have children at school consider that they are at work when at their studies. Most of us who are parents find work for our children out of school without shutting them up in a factory. I most earnestly deprecate the position that the little children of the poor must be deprived of their Saturday holiday and of their vacation periods, or that we have yet descended so low in civilization that it is necessary to sentence children under 14 years of age to hard labor in factories during the vacation period in order to keep them from becoming criminals. Mrs. Garrett quotes from Judge Ben Lindsay

to the effect that "there are a great number of children in this country from 14 years of age upward about whom I feel more alarmed at their failure to do or to know how to do any kind of useful work than of any possibility of their being overworked." But Miss Garrett is contending for the employment of children under 14, while Judge Lindsay is concerned about the unemployment of children over 14.

Nor are we left without convincing proof of the fact that it is the children who are employed too early in life who make up the army of juvenile delinquents who pass through the juvenile courts. In a study made by the Federal Bureau of Labor in the year 1908 from the juvenile court records of several of our larger cities it was found that much the largest percentage of juvenile delinquents were children who went to work too soon. Forty per cent of the children who came before the juvenile courts of these cities came from two occupations in which children were employed. If space permitted we could quote interminably from people whose lives have been devoted to the welfare of children who agree on the proposition that children under 14 years of age should not be employed in mills, factories, and workshops, either during the school term or during vacation.

Miss Garrett advances the theory that the chronological test is not the best one. Many State laws provide that while 14 should be the minimum for the employment of children in factories, if a child is below the normal size and weight for a child of 14, this fact being left for a physician to say, and also whether the child is unfit for any physical reason for a particular employment, such child is not permitted to work. It is true that there are overgrown children of 14 years of age. There are exceptionally bright minors who are not allowed to vote. A general law can not deal with exceptional cases; and there is not so much hardship involved in the prohibtion of factory employment for overgrown children under 14 as there would be for the number of immature children that might be employed if a lower standard were fixed. And this limit has been agreed upon so universally not only in this country but in European States, because of the scientific fact that as a general thing it is the time in the life of a young girl when she has just passed the most critical period of her life, and it is the time in the life of a boy two years after the beginning of the period when his second rapid development starts. Certainly no girl under 16 should work more than eight hours a day.

I hardly think it worth while to argue further concerning the value of the 14-year age limit as a minimum for the employment of children in factories. With very much that both Miss Garrett and Mrs. Birney have to say concerning the training of children to habits of work and to skillfulness with their hands and fingers I am in hearty accord. I think there is no organization in the country which is more deeply interested in the problems of industrial education and of vocational direction than the National Child Labor Committee. Not long ago it devoted one of its annual conventions solely to the topic of child labor and education, and it has hardly ever had a meeting in which this phase of the question was not discussed. But we believe that the child under 14 should be kept out of competitive industry, that his work should be regarded not from the wage-earning standpoint but from the educational standpoint

solely. We are opposed to child exploitation. And we believe that the exploitation of children in factories, mines, and workshops must be abolished, as we hope it will be in large part ended by the passage of this bill, before we can take up the constructive part of our program, the education of all children industrially.

I notice that the chairman asked Mrs. Birney the question, "Do you know what Miss Lathrop thinks of this?" Mrs. Birney replied, "I do not know." I desire to call the attention of the committee to an extract from the testimony of Miss Julia C. Lathrop, Chief of the Children's Bureau, in favor of the Federal child-labor bill, given before the House Committee on Labor. I call especial attention to her testimony on pages 198–199 of the Senate hearings, which is as follows:

The CHAIRMAN. You are perhaps prepared to give an opinion upon a question like this: Do the medical authorities find it to be a fact that the stress of continuous labor, industrial labor, affects the growth of the child, the ordinary physical development of the child?

Miss LATHROP. I think that all European and American authorities alike agree upon that. Of course, the labor of children is very largely surrounded by such other disadvantageous conditions outside of the factory as go to make the factory injury from impure air or overspeeding, even more disadvantageous to the child than if the child came from a happy and luxurious home, to which he or she returned, where health and comfort were preserved in every respect outside of the hours of labor.

The CHAIRMAN. What age or period of the child's life has been indicated by the physicians as the appropriate age at which labor could safely begin?

Miss LATHROP. I am not aware that there is any uniform decision by the medical profession on this matter, but I notice that every year those who study most carefully the growth and development of America push that age further and further ahead, whether they are educators or whether they are physicians, or whether they are interested in any form of civic improvement where the interests of the child are concerned.

Miss Lathrop has stated the philosophy of the movement for child-labor reform. The progress of the race itself is measured by the degree of the prolongation of the period of childhood. "To be a man too soon is to be a small man." "It is a shame for a nation to make its young girls weary."

The CHAIRMAN. At this point I desire to have placed in this hearing certain correspondence relating to the subject under discussion.

(The correspondence is as follows:)

UNITED STATES SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D. C., February 19, 1916.

Hon. FRANCIS G. NEWLANDS,
Chairman Interstate Commerce Committee, United States Senate.

DEAR SENATOR: Following up my conversation with you on the subject, I beg to inclose herewith a communication which has been transmitted to me by Mr. Landon Lowry, of Bedford City, Va., suggesting an amendment to the child-labor bill. Mr. Lowry is a gentleman of high standing in his community and is deeply interested in the matter. I understand that your committee will have a meeting on this bill perhaps the early part of the coming week, and I wish to invite your attention and the attention of your committee to this matter, so that it may have the consideration to which you may deem it entitled.

Very sincerely, yours,

THOMAS S. MARTIN.

BEDFORD CITY, VA., *February 19, 1916.*

Hon. FRANCIS G. NEWLANDS,
Chairman Interstate Commerce Committee, United States Senate.

MY DEAR SIR: With reference to House bill 8234, known as the child-labor bill, I desire to request that the committee add an amendment to this bill which

will be in the interest of canners in the rural districts, and I would suggest the following proviso:

"*Provided, however*, That nothing contained in this act shall apply to persons employed in factories in the rural or country districts engaged exclusively in packing fruits or vegetables between July 1 and October 1 of each year."

This is a reasonable exception for the country districts by reason of the fact that there are a large number of canners scattered throughout these rural districts who are engaged almost exclusively in the packing of tomatoes, and the season usually begins about the middle or latter part of July and ends about the 1st of October. Hence the children are not deprived of school facilities. Furthermore, for these country canneries to operate they have to depend largely upon this class of labor. The parents of the children are usually engaged in farming, and they can not quit this occupation to work in the canning factory. These children make from $1 to $1.50 per day while employed, and they earn a sufficient amount to buy their winter clothing and schoolbooks. They are not paid by the hour or by the day but for the work they do; hence if they become tired they are not driven to overtax themselves but are at liberty to stop work if they desire.

The factories in which these children are employed are usually small buildings, work anywhere from 25 to 50 people, the majority of whom are women and children. It is practically all outdoor work, since the factories are constructed of planked-up buildings, in which there is plenty of fresh air.

The canning industry in Bedford County, Va., for the year 1915 amounted to the sum of $400,000. In the counties of Bedford, Roanoke, Botetourt, and Franklin it amounted to the sum of $1,000,000. The child labor employed in Bedford County under 14 years of age is estimated to be 750 children. In the four counties above mentioned it is estimated that there are 2,000 children employed, and, as has been stated above, if this class of labor were prevented from working in these factories it would in effect close these factories from operation by reason of the scarcity of labor in the rural districts. If the committee should deem it wise to incorporate in House bill 8234 the provision above referred to the canning industry will be greatly benefited, and no injurious effects will, in the opinion of the writer, result to children therefrom. The amendment suggested to this bill is practically the law of the State of Virginia as embodied in section 3657B of the Code of Virginia.

Yours, very truly,

LANDON LOWRY.

THE MERCHANTS' ASSOCIATION OF NEW YORK,
233 Broadway, Woolworth Building, New York, March 16, 1916.

Hon. FRANCIS G. NEWLANDS,
Chairman Senate Committee on Interstate Commerce,
Washington, D. C.

MY DEAR SIR: The Keating child-labor bill (H. R. 8234) was considered by the board of directors of this association at a meeting held March 9, and the following resolution was unanimously adopted:

"*Resolved*, That the Merchants' Association of New York, while approving and urging the adoption by the several States of suitable laws for the effective regulation of child labor, protests against the Keating child-labor bill (H. R. 8234), believing that the regulations affecting conditions of production should properly be left to the discretion of the several States."

Very truly, yours,

THE MERCHANTS' ASSOCIATION OF NEW YORK,
By S. C. MEAD, *Secretary.*

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
March 20, 1916.

Hon. F. G. NEWLANDS,
Chairman Committee on Interstate Commerce,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I inclose you a letter from Mr. J. R. Jones, secretary and treasurer of the Sanford Cotton Mills, of Sanford, N. C.

Mr. Jones desires this letter filed with your committee because he claims Miss Sinclair misrepresented the facts before the House committee with reference to his mill.

Very truly, yours,

F. M. SIMMONS.

SANFORD COTTON MILLS,
Sanford, N. C., March 18, 1916.

Hon. F. M. SIMMONS,
Washington, D. C.

DEAR SIR: We received copy of the hearing before Senate Committee on Interstate Commerce and notice that our mill was one of the mills that Miss Sinclair gives as working children in violation of the State law.

Her report is very much incorrect, for some of them are young ladies that work in the weave room, others are 15, 16, and 17 years of age, and some that she names have never worked in the mill at all. Some that she claimed to have worked here for two years was only here for a few months. My superintendent says that if he has any idea that a child is too young he does not allow them to work until he questions their parents and has them to sign a certificate that the child is over 13 years of age. We would be very glad if the subcommittee of the Senate, if they visit any of the mills of the South, would visit our mill and see the conditions for themselves.

Please hand this to the committee and ask them to visit our mill. Would be glad for them to bring Miss Sinclair with them, so that she might see how erroneous her report was.

Yours, very truly,

J. R. JONES,
Secretary and Treasurer.

The honorable FRANCIS G. NEWLANDS,
United States Senate, Washington, D. C.

SIR: Two women recently appeared before the Interstate Commerce Committee opposing the passage of the Keating-Owen child-labor bill. They claimed to represent 100,000 women of the National Congress of Mothers. They represent the national executive committee of five women (three of whom constitute a quorum), but are in no sense empowered to speak for the rank and file of the organization.

The undersigned are a committee of 600 women organized a year ago to oppose the very reactionary child-labor bill introduced into the Pennsylvania Legislature by Mrs. Frederic Schoff, president of the National Congress of Mothers. This bill allowed 54 hours a week and was indorsed by the manufacturing interest of the State, with whom Mrs. Schoff was closely allied, as only last week she sold 1,174 shares of her stock in the Kent Mills at Clifton Heights, Pa., a textile mill employing children.

Her bill was defeated partly through our efforts, and the Brumbaugh-Cox bill was passed.

We beseech you to give your vote in favor of the Keating-Owen bill, and not to believe that the organized motherhood of this country is opposed to it.

(Signed) PHILADELPHIA MOTHERS' CLUB.
FRANKFORD MOTHERS' CLUB.
OLNEY MOTHERS' CLUB.
SWARTHMORE MOTHERS' CLUB.
SWARTHMORE HOME AND SCHOOL ASSOCIATION.
GERMANTOWN MOTHERS IN COUNCIL.
LANSDOWNE MOTHERS IN COUNCIL.

ST. PAULS COTTON MILL CO. (INC.),
St. Pauls, N. C., March 22, 1916.

COMMITTEE ON INTERSTATE COMMERCE,
United States Senate, Washington, D. C.

GENTLEMEN: Relative to a report that Miss Sinclair made stating that we were employing children under lawful age to work in our mill, we want to say that we have signed certificates from the parents of the children stating that they were of lawful age when employed by us.

Yours, very truly,

ST. PAULS COTTON MILL CO.,
By A. R. MCEACHERN.

THE ROCHESTER CHAMBER OF COMMERCE,
March 21, 1916.

CHAIRMAN INTERSTATE COMMERCE COMMITTEE OF THE SENATE,
Senate Chamber, Washington, D. C.

MY DEAR SIR: It gives me pleasure to bring to your attention the following resolution adopted by the Rochester Chamber of Commerce on March 13, 1916, on the Owen Senate bill 1083:

"Whereas the Owen Senate bill 1083 would prevent interstate commerce in the products of certain child labor; and

"Whereas the bill as it is drawn would not prevent interstate commerce in articles manufactured in foreign countries by child labor; and

"Whereas competition with foreign articles manufactured by cheap child labor in violation of the bill manifestly would be unfair to American manufacturers; and

"Whereas the bill does not provide relief for canners necessitated by their dependency upon the labor supply and the seasons: Now, therefore, be it

"*Resolved*, That the Rochester Chamber of Commerce is in favor of the apparent aim of the bill to prevent abuses in child labor, but strongly recommends that the words 'produced in the United States' be stricken from the first section; that some provision be made for barring from the United States articles manufactured in foreign countries in violation of the act; and that reasonable exemption be provided for the canning industry."

I trust that you will give the foregoing resolution your favorable consideration in connection with the disposition by Congress of the Owen bill.

Yours, very truly,

ROCHESTER CHAMBER OF COMMERCE,
ROLAND B. WOODWARD, *Secretary.*

The CHAIRMAN. I have also received a letter from Stokely Bros. & Co., of Newport, Tenn., reliable and intelligent gentlemen engaged in canning fruits and vegetables, in which they inclose a copy of the proposed amendment under consideration by this committee, together with a copy of the labor laws of the State of Tennessee.

(The matter referred to is as follows:)

Insert on page 2, line 2, after "intermeridian" clause in these words: "*Provided*, That it shall not be unlawful for canneries of fruits and vegetables to employ children over twelve years of age, working not more than eight hours each day and not more than six days of the week, in open sheds, and during the vacation of the public schools, in the months of June, July, and August.

STOKELY BROS. & CO.,
Newport, Tenn., March 18, 1916.

Senator JOHN K. SHIELDS,
Washington, D. C.

DEAR SENATOR: We are going to undertake to give below some of the main reasons why we think fruit and vegetable canneries should be exempted from the Keating bill.

The Keating bill as passed by the House exempts boys and girls canning clubs, and we think very properly does so. As the same kind of work is done at canning factories as is done by canning clubs and as the work is done under practically the same conditions, we think there are the same reasons for exempting fruit and vegetable canneries as there are for exempting boys and girls canning clubs. Besides, the products of boys and girls canning clubs come direct in competition with the products of fruit and vegetable canneries, so fruit and vegetable canneries should be on the same basis as the canning clubs.

The fruit and vegetable season as you, of course, know comes on during the summer months and lasts for only a short time, and the canning must be done when they are ripe if at all. The very fact that the fruit and vegetable canning season lasts for only a short time makes it impossible for the cannaries to depend on labor that must have regular employment throughout the year. The canning factories throughout this State and throughout other Southern States, where we are acquainted with conditions, depend largely for their help in taking care of the fruit and vegetable crops on the school boys and

school girls, as these crops mature when all the schools are in vacation. A large part of the work such as peeling tomatoes, stringing and breaking beans, and the preparation of other fruits and vegetables for the cans can be done by boys and girls between 12 and 16 years of age, as well as by grown people. This work is not injurious to the health of the boys and girls, as the bulk of it is done in open sheds, and as the work is done by the piece and the worker is not required to work any special number of hours, but may begin when he chooses and quit when he chooses. The work is not dangerous, as it is practically all done by hand without the use of machinery. There is no question but that it is a great blessing to the boys and girls of the small towns and rural communities where the canneries are usually located to have an opportunity to earn some money during their vacation and to do it without injuring their health in any way.

Is it not much better for the boys between 12 and 16 years of age to have employment in helping take care of the fruit and vegetable crops rather than be loafing on the streets of a small town?

The canning industry, which is in its infancy in our State and practically all of the Southern States, would receive a hard blow if this exemption from the Keating bill is not secured. It is recognized by the United States Government that the growing and canning of fruits and vegetables needs development and encouragement, especially in the South. To this end the Agricultural Department is now sending out farm demonstrators to practically every county in the South to organize tomato clubs and teach school children to raise vegetables and to can them where no canneries are available for canning them. They are being encouraged to raise one-tenth of an acre each. The United States Government no doubt expects the vegetable industry and the canning industry to grow in the South, else all this money wouldn't be spent in doing this missionary work so thoroughly. The school children who are now being taught to grow and market successfully one-tenth of an acre of tomatoes, after they get older, no doubt, will be able to grow successfully 1 acre or 5 acres each. When they get to growing 1 acre or 5 acres each, then a well-organized cannery is absolutely necessary in order to take care of and market successfully the increased crops of vegetables. If the Government should come along now and make it unlawful for these school children to assist the cannery in taking care of the vegetable crops that the Government has taught them to raise, it seems to us that our Government would be blocking its own game and make impossible the normal growth and development of the industry that it is now doing so much to get started.

The Tennessee Legislature, at its recent session, passed an amndment to its child-labor laws exempting fruit and vegetable canneries. The members of the legislature were convinced that the growing and canning of fruits and vegetables in this State couldn't progress as it should if the industry were under the same child-labor laws as applied to factories running steadily throughout the year and factories surrounded by conditions that made the child-labor law necessary. We understand that a great many other States have exempted fruit and vegetable canneries from their child-labor laws, especially when the industry was in its infancy.

Many other reasons than those which we have mentioned will doubtless suggest themselves for exempting fruit and vegetable canneries from the operation of this law. They are obviously in an entirely different class from those industries which operate the year round or even a considerable part of a year, and reasons which may make the bill desirable in so far as such industries are concerned are in no way applicable to fruit and vegetable canneries.

Hoping that you will fully appreciate the great necessity of the exemption that we are asking for and hoping you will be able to convince the committee who has this bill in charge that our request is a reasonable and just one, we are,

Yours, very truly,

STOKELY BROS. & CO.,

THE CHILD LABOR LAWS OF THE STATE OF TENNESSEE.

[Acts of 1911, chap. 57, p. 108.]

An Act To regulate the employment of minor children, and to prescribe penalties for the violation thereof.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That it shall be unlawful for any proprietor, foreman, owner, or other person to employ, permit, or suffer to work any child less than fourteen years of age in,

about, or in connection with any mill, factory, workshop, laundry, telegraph or telephone office, or in the distribution or transmission of merchandise or messages.

SEC. 2. *Be it further enacted*, That it shall be unlawful for any proprietor, foreman, owner, or other person to employ, permit, or suffer to work any child under fourteen years of age in any business or service whatever which interferes with the child's attendance at school, except in agricultural or domestic service, during any part of the term the public schools of the district in which the child resides are in session.

SEC. 3. *Be it further enacted*, That no child under the age of sixteen years shall be employed, permitted or suffered to work at any of the following occupations or in any of the following positions: Repairing machine belts, while in motion, in any workshop or factory, or assisting therein in any capacity whatever; adjusting any belt to any machinery; oiling or cleaning machinery or assisting therein; operating or assisting in operating circular or band saws, wood shapers, wood joiners, planers, sandpaper or wood-polishing machinery; picker machines, machines used in picking wool, machines used in picking cotton, machines used in picking hair, machines used in picking any upholstering material; paper-lacing machines, leather-burnishing machines in any tannery or leather manufactory; job or cylinder printing presses operated by power other than foot power; emery or polishing wheels used for polishing metal; wood-turning or boring machinery; stamping machines used in sheet-metal and tinware manufacturing; stamping machines in washer and nut factories; corrugating rolls, such as are used in roofing and washboard factories; steam boilers, steam machinery, or other steam-generating apparatus; dough brakes or cracker machinery of any description; wire or iron straightening machinery; rolling-mill machinery, punches, or shears; washing, grinding, or mixing mills; calendar rolls in rubber manufacturing; laundering machinery; dipping, drying, or packing matches; or in mines or quarries.

SEC. 4. *Be it further enacted*, That it shall be unlawful for any proprietor, foreman, owner, or other person to employ any child under eighteen years of age as a messenger for a telegraph or messenger company in the distribution, transmission, or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening of any day.

SEC. 5. *Be it further enacted*, That it shall be unlawful for any proprietor, foreman, owner, or other person to employ, permit, or suffer to work any child between the ages of fourteen and sixteen years in, about, or in connection with any place or establishment named in section one, unless said proprietor, foreman, owner, or other person keep on file and accessible to the shop and factory inspector a sworn statement made by the parent or guardian or any person acting as guardian of such child, setting forth the place and date of birth of such child, and whoever shall make false statement as to the age of such child in such sworn statement shall be deemed guilty of perjury.

SEC. 6. *Be it further enacted*, That whoever employs any child, and whoever having under his control as parent, guardian, or otherwise, any child, permits or suffers such child to be employed or to work in violation of any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than $25 nor more than $250, in the discretion of the court.

SEC. 7. *Be it further enacted*, That all laws and parts of laws in conflict with this act are hereby repealed.

SEC. 8. *Be it further enacted*, That this act take effect from and after its passage, the public welfare requiring it.

Passed June 30, 1911.

N. BAXTER, Jr.,
Speaker of the Senate.
A. M. LEACH,
Speaker of the House of Representatives.

Approved July 4, 1911.

BEN W. HOOPER, *Governor.*

[Acts of 1913, ch. 12, p. 407, special session.]

An Act To limit and regulate the hours of labor of women and children under the ages of sixteen years in workshops and factories in the State of Tennessee, and to provide penalties for the violation thereof.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That on and after January first, nineteen hundred and fourteen, and up to and including January first, nineteen hundred and fifteen, it shall be unlawful for

any proprietor, foreman, owner, or other person to employ, permit, or suffer to work in, about, or in connection with any workshop or factory in the State of Tennessee any female or any child under the age of sixteen years in excess of fifty-eight hours in any one week or more than ten and a half hours in any one day: *Provided*, That ten and a half hours a day will be permitted only for the purpose of providing for one short day in the week.

SEC. 2. *Be it further enacted*, That commencing January first, nineteen hundred and fifteen, it shall be unlawful for any proprietor, foreman, owner, or other person to employ, permit, or suffer to work in, about, or in connection with any workshop or factory in the State of Tennessee any female or any child under sixteen years of age in excess of fifty-eight hours in any one week or more than ten and a half hours in any one day: *Provided*, That ten and a half hours per day will be permitted only for the purpose of providing for one short day in the week.

SEC. 3. *Be it further enacted*, That any proprietor, foreman, owner, or other person who shall require, permit, or suffer to work in, about, or in connection with any industry or establishment named in the foregoing section any female or child under the age of sixteen years more than the number of hours as prescribed in sections one and two of this act, or any person mentioned in sections one and two violating any of the provisions of this act, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than $25 nor more than $100 for each offense.

SEC. 4. *Be it further enacted*, That every proprietor, foreman, owner, or other person in charge of any industry specified in sections one and two of this act shall post, or cause to be posted, in a conspicuous place in the workroom or place of employment where persons affected by this act are employed a printed or written notice setting forth therein the hours of commencing and leaving work, the time allowed for meals or other intermissions, and the maximum number of hours any female or child under the age of sixteen be permitted to work in any one day, or in any one week. And in event any proprietor, foreman, owner, or other person shall operate a business which runs at night he shall specify in said notice the hours of work on the night shift, giving the number of hours each female or child under the age of sixteen years is permitted to work on such night shift.

SEC. 5. *Be it further enacted*, That the failure on the part of any proprietor, foreman, owner, or other person in charge of any industry named in sections one and two of this act to post, or cause to be posted, within sixty days after date of passage of this act, and to keep posted said notices as provided in section four, shall be prima facie evidence of the violations of sections one and two of this act.

SEC. 6. *Be it further enacted*, That every proprietor, foreman, owner, or other person mentioned in the foregoing sections of this act shall keep, or cause to be kept, a record, showing the length of time each and every female or child under sixteen years has worked each day and the number of hours worked in each week, and such record shall be open for inspection at all reasonable hours to the department of workship and factory inspection.

SEC. 7. *Be it further enacted*, That the State Department of Workshop and Factory Inspection shall be charged with the duty of enforcing the provisions of this act and prosecute all violations thereof.

SEC. 8. *Be it further enacted*, That all laws and parts of laws in conflict with this act are hereby repealed.

SEC. 9. *Be it further enacted*, That this act take effect from and after its passage, the public welfare requiring it.

Passed September 22, 1913.

NEWTON H. WHITE,
Speaker of the Senate.

W. M. STANTON,
Speaker of the House of Representatives.

Approved September 25, 1913.

BEN W. HOOPER, *Governor.*

[Acts of 1913, ch. 47, p. 574, special session.]

A Bill To be entitled an act to amend an act entitled "An act to regulate the employment of minor children, and to prescribe penalties for the violation thereof," being chapter fifty-seven, public acts of nineteen hundred and eleven.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That section one of the act entitled "An act to regulate the employment of

minor children, and to prescribe penalties for the violation thereof," be amended by adding, at the end of said section, the following:

"And no child under sixteen years of age shall be employed, permitted, or suffered to work in any of the occupations named in this section between the hours of six o'clock in the evening and six o'clock in the morning of any one day."

SEC. 2. *Be it further enacted*, That section two of said act be amended by striking out in said section the words "except in agricultural or domestic service."

SEC. 3. *Be it further enacted*, That this Act take effect from and after its passage, the public welfare requiring it.

Passed September 27, 1913.

NEWTON H. WHITE,
Speaker of the Senate.

W. M. STANTON,
Speaker of the House of Representatives.

Approved September 27, 1913.

BEN W. HOOPER, *Governor.*

[Act of 1915, Chap. No. 144, p. 402.]

An Act To amend chapter twelve of the acts of nineteen hundred and thirteen, passed September twenty-second, nineteen hundred and thirteen, approved September twenty-fifth, nineteen hundred and thirteen, said act being an act to limit the hours of labor of women and children under the age of sixteen years, in workshops and factories in the State of Tennessee, and to provide penalties for the violation thereof.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That section one of chapter twelve of the acts of the special session of the general assembly, nineteen hundred and thirteen, be amended by adding, after the end thereof, the following:

"That the term 'workshops and factories' as used in this act shall include the following: Manufacturing, mills, mechanical, electrical, mercantile, art, and laundering establishments, printing, telegraph and telephone offices, department stores, or any kind of an establishment wherein labor is employed or machinery is used: *Provided*, That domestic service and agricultural pursuits are hereby excluded."

SEC. 2. *Be it further enacted*, That section two of said act be amended after the fifty-fourth word thereof, substituting the word "fifty-seven" for the word "fifty-eight."

SEC. 3. *Be it further enacted*, That all laws and parts of laws in conflict with this act are hereby repealed.

SEC. 4. *Be it further enacted*, That this act take effect from and after its passage, the public welfare requiring it.

Passed May 15, 1915.

ALBERT E. HILL,
Speaker of the Senate.

WM. P. COOPER,
Speaker of the House of Representatives.

Approved May 17, 1915.

TOM C. RYE, *Governor.*

[Act of 1915, ch. 172, p. 521.]

A Bill To be entitled an act to amend an act entitled "An act to regulate the employment of minor children and to prescribe penalties for violation thereof," being chapter fifty-seven of the acts of nineteen hundred and eleven, of the general assembly of Tennessee, as amended by chapter forty-seven of the acts of nineteen hundred and thirteen, entitled "An act to amend an act entitled 'An act to regulate the employment of minor children and to prescribe penalties for violation thereof.'"

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That chapter fifty-seven of the acts of nineteen hundred and eleven of the General Assembly of the State of Tennesee, as amended by chapter forty-seven of the acts of nineteen hundred and thirteen, entitled "An act to regulate the employment of minor children and to prescribe penalties for the violation thereof," be amended so as to provide that hereafter none of the provisions of said act as amended, except the provisions contained in sections two and three of said act, shall apply to fruit and vegetable canning factories.

SEC. 2. *Be it further enacted*, That all laws and parts of laws in conflict with this act be, and the same are hereby, repealed.

SEC. 3. *Be it further enacted*, That this act take effect from and after its passage, the public welfare requiring it.

Passed May 17, 1915.

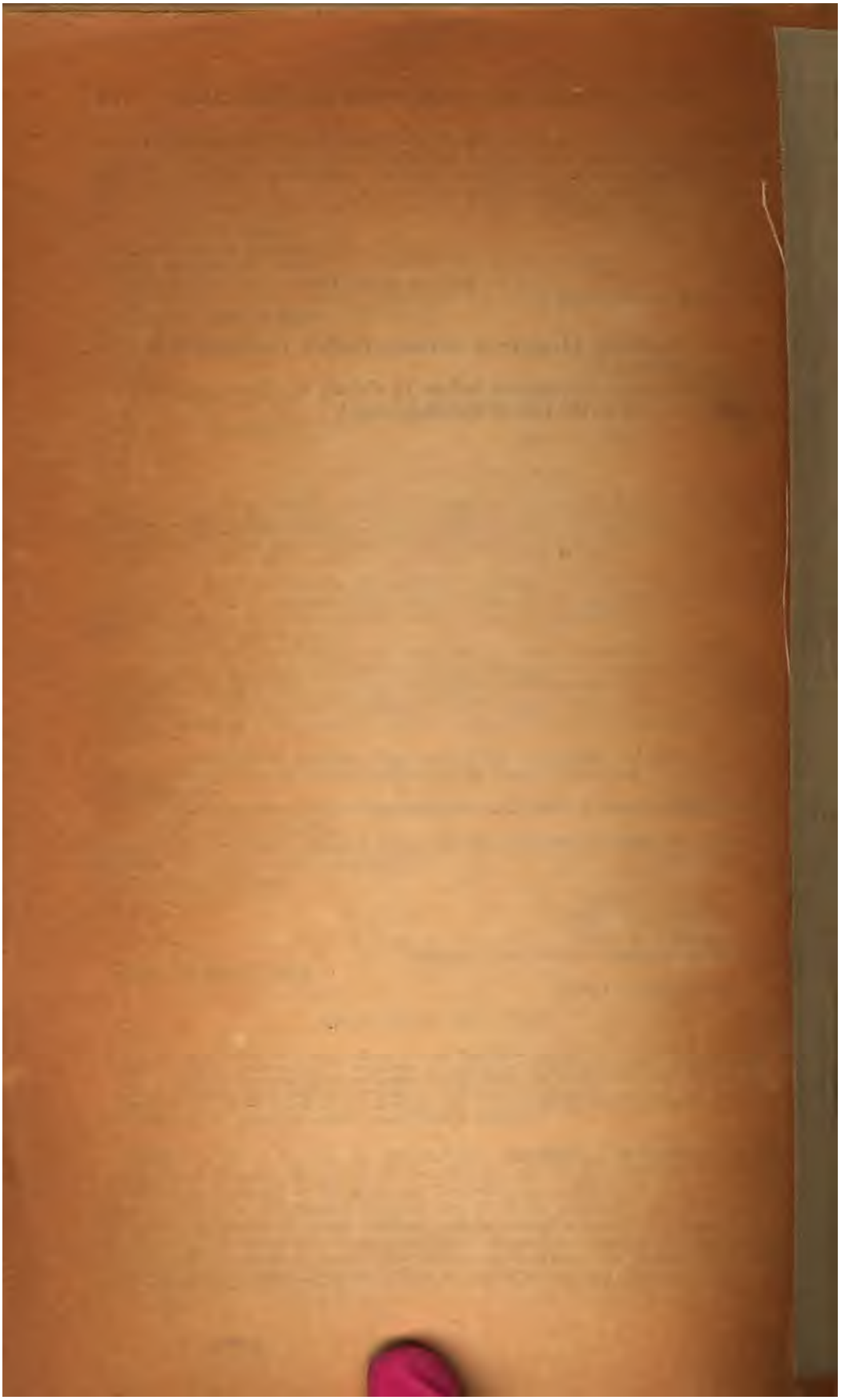
ALBERT E. HILL,
Speaker of the Senate.
WM. P. COOPER,
Speaker of the House of Representatives.

Approved May 17, 1915.

TOM C. RYE, *Governor.*

The CHAIRMAN. If there is nothing further the committee will stand adjourned.

(Thereupon, at 10 minutes before 12 o'clock m., the committee adjourned, subject to the call of the chairman.)



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